

MINUTES OF THE SPECIAL MEETING OF THE CITY COUNCIL

Wichita, Kansas, May 3, 2005
Tuesday, 9:11 A.M.

The City Council met in regular session with Mayor Mayans in the Chair. Council Members Brewer, Fearey, Gray, Martz, Schlapp, Skelton; present.

George Kolb, City Manager; Gary Rebenstorf, Director of Law; Karen Sublett, City Clerk; present.

Ashok Aurora, of the Hindu faith, gave the invocation.

The pledge of allegiance to the flag was participated in by the Council Members, staff, and guests.

The Minutes of the April 26, 2005 meetings were approved 7 to 0.

AWARDS AND PROCLAMATIONS

Proclamations

The following proclamations were read aloud by Mayor Mayans:

Music Week-Judy Sorrell

Motorcycle Awareness Month-Glenda Dewey

Arson Awareness Month-Ed Bricknell

Foster Care Month-Anthony Grote and Jonathan Newcomb

Days of Remembrance of the victims of the Holocaust

Brain Tumor Action Week-Jeannette Stafford and Pamela Frazee

Recognition

RECOGNITION OF SISTER CITIES STUDENT AMBASSADORS TO CANCUN.

Mayor Mayans recognized each student and presented them with a certificate.

WSU BOWLING TEAM RESOLUTION RECOGNIZING WSU WOMEN'S BOWLING TEAM.

Mayor Mayans recognized and congratulated the WUS Women's Bowling Team.

PUBLIC AGENDA**KING DAVID DAVIS****KING DAVID DAVIS-THE HONOR OF SUCH AN OPPORTUNITY FOR EXCEED
WHAT I CAN SPEAK OR IMAGINE.**

King David Davis

Mr. Davis stated that he is here in the spirit of respect and hope and that the attitudes at City Hall have no business here.

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CONSENT AGENDA

Motion--carried Mayor Mayans moved to approve the Consent Agenda Items as presented. Motion carried 7 to 0.

BOARD OF BIDS

REPORT OF THE BOARD OF BIDS AND CONTRACTS DATED MAY 2, 2005.

Bids were opened April 29, 2005, pursuant to advertisements published on:

PUBLIC WORKS DEPARTMENT/ENGINEERING DIVISION: Sewers, Paving and Water Mains as per specifications.

Storm Water Drain #199 to serve Woodland Lakes Estates 3rd Addition - north of Harry, west of 127th Street East. (468-83592/751393/485284) Does not affect existing traffic. (District II)

Mies Construction - \$362,665.00

Hawthorne Street from the south line of Lot 13, Block A, north to and including the Hawthorne Court and continuing south to the north line of Siefkes to serve Shoal Creek 3rd Addition - south of Central, west of 143rd Street East. (472-84085/765930/490043) Does not affect existing traffic. (District II)

Kansas Paving Company - \$64,350.00

West Side Athletic Field Lighting Project - Athenian & McLean Blvd. (472-84002/602562 /800402/010123) Does not affect existing traffic. (District IV)

Shelly Electric - \$40,985.00 (Base Bid)
\$ 2,315.00 (Alternate No. 2)
\$43,300.00 (Aggregate Bid Total – negotiated to engineer's estimate)

Water Distribution System, Phase II to serve Auburn Hills 15th Addition - north of Kellogg, west of 135th Street West. (448-89911/735237/470908) Does not affect existing traffic;
Water Distribution System, Phase IIB to serve Auburn Hills 15th Addition - north of Kellogg, west of 135th Street West. (448-90035/735241/470912) Does not affect existing traffic; **AND** Water Distribution System to serve Auburn Hills 15th Addition - north of Kellogg, west of 135th Street West. (448-90036/735238/470909) Does not affect existing traffic. (District V)

Padgett Excavating - \$58,755.00

Motion-- Mayans moved that the contracts be awarded as outlined above, subject to check, same being the lowest and best bid within the Engineer's construction estimate, and the and the necessary signatures be authorized. Motion carried 7 to 0.

--carried

WATER & SEWER DEPARTMENT/SEWAGE TREATMENT DIVISION: Multi-Parameter Water Quality Logger.

Hydrolab Corporation - \$23,630.00 (Group 1/total net bid)

AIRPORT/ENGINEERING DIVISION: Midfield Road Transformer.

Shelley Electric Inc. - \$95,000.00 (Group 1/total net bid)

PUBLIC WORKS DEPARTMENT/BUILDING SERVICES DIVISION: Roof Replacement Rockwell Library.

Larry Booze Roofing Inc. - \$32,000.00 (Group 1/total net bid)

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WATER & SEWER DEPARTMENT/SEWAGE TREATMENT DIVISION: Polymer.

Polydyne LW 852 Plea - .13/LB* (Group 1/unit cost)

Awarded 3/16/04 Water & Sewer Department/Sewage Treatment Division

Price Escalation From .119/LB to .13/LB 5/3/05

*Estimate – Contract approved on unit cost basis.

Motion--
--carried

Mayans moved that the contract(s) be awarded as outlined above, same being the lowest and best bid, and the necessary signatures be authorized. Motion carried 7 to 0.

CMBS

APPLICATIONS FOR LICENSES TO RETAIL CEREAL MALT BEVERAGES:

<u>Renewal</u>	<u>2005</u>	<u>(Consumption on Premises)</u>
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Troy Hendricks	Auburn Hill Golf Course	443 S. 135th Street West
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<u>Renewal</u>	<u>2005</u>	<u>(Consumption off Premises)</u>
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Brandon Dier	Speedway	565 S. Market
Robin E. Forbis	Wal-Mart Supercenter #3283	10600 West 21 Street

*General/Restaurant - 50% or more of gross receipts derived from sale of food.

Motion--
--carried

Mayans moved that the licenses subject to Staff review and approval be approved. Motion carried 7 to 0.

PRELIM. ESTS.

PRELIMINARY ESTIMATES:

- a. 2005 Sanitary Sewer Reconstruction, Phase 4 (various locations between Maize & Woodlawn, from 11th Street North to 35th Street South) (468-83975/620430/665550) Traffic to be maintained during construction using flagpersons and barricades. (District I,II,III,IV) - \$265,000.00
- b. 24 Inch Water Main along Maple Street from 151st Street West to west of Wind Lakes Drive to serve Miles West Wind Lakes Addition (along Maple Street, west of 151st Street West) (448-89944/635656/764701) Traffic to be maintained during construction using flagpersons and barricades. (District V) - \$236,500.00
- c. Aksarben from the south line of Lot 37, Block A, south to the north line of Lost Creek; Lost Creek from the west line of Aksarben, east to the east line of the Plat; Harvest Lane from the west line of Aksarben, west to the west line of the Plat; Aksarben, from the south line of Lost Creek Circle, south to the south line of the Plat; Harvest Lane Court from the north line of Harvest Lane, north to and including the cul-de-sac; Aksarben Court from the west line of Aksarben, west to and including the cul-de-sac; Lost Creek Circle from the south line of Lost Creek, west to and including the cul-de-sac; Sidewalk on one side of Aksarben, Harvest Lane and Lost Creek to serve Copper Gate Estates Addition (south of 13th Street North, west of 135th Street West) (472-83671/765901/490014) Does not affect existing traffic. (District V) - \$415,000.00

Motion--carried

Mayans moved that the file be received. Motion carried 7 to 0.

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PETITION

PETITIONS FOR PUBLIC IMPROVEMENT: CONSTRUCT A SANITARY SEWER IN FONTANA ADDITION, EAST OF 119TH STREET WEST, NORTH OF 29TH STREET NORTH. (DISTRICT V)

Agenda Report No. 05-0395

On September 14, 2004, the City Council approved a Petition to construct a sanitary sewer in Fontana Addition. The developer has submitted a new Petition to reallocate special assessments within the Addition. The signature on the new Petition represents 100% of the improvement district.

The project will serve a new residential development located east of 119th St. West, north of 29th St. North.

The project budget is unchanged.

State Statutes provide that a Petition is valid if signed by a majority of resident property owners or the majority of the property in the improvement district.

Motion--carried

Mayans moved that the Petitions be approved and the Resolutions adopted. Motion carried 7 to 0.

RESOLUTION NO. 05-229

Resolution of findings of advisability and Resolution authorizing construction of Lateral 5, Main 7, Northwest Interceptor Sewer, (east of 119th street west, north of 29th street north) 468-83877, in the City of Wichita, Kansas, pursuant to findings of advisability made by the Governing Body of the City of Wichita, Kansas, presented. Mayans moved that the Resolution be adopted. Motion carried 7 to 0. Yeas: Brewer, Fearey, Gray, Lambke, Martz, Schlapp, Mayans.

BOARD OF BIDS

MINUTES OF ADVISORY BOARDS/COMMISSIONS:

District VI Advisory Board, February 7, 2005
Employees Retirement Board Police & Fire, March 3, 2005
District VI Advisory Board, March 7, 2005
District I Advisory Board, March 7, 2005
Board of Code Standards and Appeals, March 7, 2005
Board of Park Commissioners, March 14, 2005
Wichita Public Library monthly report, March 2005

Motion--carried

Mayans moved that the file be received. Motion carried 7 to 0.

STREET CLOSURES

CONSIDERATION OF STREET CLOSURES/USES.

Agenda Report No. 05-0396

In accordance with the Special Events Procedure, event sponsors are to notify adjacent property owners and coordinate arrangements with Staff, subject to final approval by the City Council.

The following street closure requests have been submitted.

Big Dog Motorcycles – Tornado Rally – June 10, 11 & 12

One-block area including Big Dog Motorcycles at 1520 E. Douglas
6:30 p.m., Friday to Midnight, June 10-12

- Douglas from New York to west edge of Hydraulic (Hydraulic open)
- New York from Douglas to First Street (First Street open)
- Pennsylvania from Douglas to First Street

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Taste of Wichita – July 1 & 2

Area including Douglas Street Bridge, West Bank, & city parking at SW corner of First & Waco
6:30 p.m., Friday to Midnight, Saturday, July 1 & 2

- Douglas Street Bridge east to McLean
- McLean north to First Street (First Street will remain open)

Police security is arranged to remove street barricades as necessary to allow emergency vehicle access during entire designated time period

Inasmuch as possible, event sponsors are responsible for all costs associated with special events.

Motion--

Mayans moved to approve the request subject to: (1) Event sponsors notifying every property and/or business adjoining any portion of the closed street; (2) Coordination of event arrangements with City Staff; (3) Hiring off-duty public safety officers as required by the Police Department; (4) Obtaining barricades to close the streets in accordance with requirements of Police, Fire and Public Works Department; (5) Submitting a Certificate of Insurance evidencing general liability insurance which covers the event and its related activities, including the naming of the City as an additional insured with respect to the event's use of the closed City streets. Motion carried 7 to 0.

--carried

CLAIMS

REPORT ON CLAIMS ALLOWED FOR MARCH 2005:

<u>Name of Claimant</u>	<u>Amount</u>
Alter, John	\$82.50
Blair Construction	\$145.00
Brown, John B.	\$270.00
Hamilton, Michelle E.	\$3,361.53
Johnson, Crystal	\$5,000.00**
Jones, Phyllis	\$159.45
McDonough, Patti (Simon Property Group)	\$4,250.00
Studemine, Margie	\$2,482.30

** Settled for lesser amount than claimed.

Motion--carried

Mayans moved that the file be received. Motion carried 7 to 0.

AGREEMENTS/CONTRACTS:

ENCROACH. AGMNT EASEMENT ENCROACHMENT AGREEMENT/TWENTY FIRST GROWTH, LLC. **(DISTRICT II)**

Agenda Report No. 05-0397

The Agreement allows Twenty First Growth, LLC to occupy and construct, improvements on, over, and across a platted 20 foot utility easement being centered on the following described line:

COMMENCING at the South most corner of said Reserve "A", thence along the Southerly line of said Reserve "A" on a curve to the left 40.42 feet to reverse curve to the right, said curve to the left having a radius of 390.00 feet, a central angle of 05°56'19", a long chord of 40.41 feet, bearing N19°38'37"W; thence along said reverse curve to the right 84.82 feet to the POINT OF BEGINNING, said curve to the right having a radius of 232.00 feet, a central angle of 20°56'49", a long chord of 84.35 feet, bearing N27°08'52"E; thence along the centerline of said platted 20 foot utility easement N01°25'27"W, 161.18 feet to the POINT OF TERMINOUS said point being the Southwest corner of Lot 7, Block 1, said Hawthorne Second Addition. The east sideline to terminate on the South line of said Lot 7, hereinafter referred to as Tract "A" and waives all rights of action in law arising out of the encroachment into the easement. The improvement is a masonry wall and footing; swimming pool decking; curb and gutter; concrete walk; concrete and/or asphalt parking lot, all in above-said easement.

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The Agreement allows the City to be held harmless from any and all claims resulting from leaking, cave-in or failure of said sewer line lying within Tract "A" and from claims resulting from replacement or upgrade of lines, manholes, and/or other Department property in the easement.

Motion--
--carried

Mayans moved that the Agreement be approved and the necessary signatures authorized. Motion carried 7 to 0.

FOX RIDGE ADD.

CONSTRUCTION ENGINEERING AND STAKING IN FOX RIDGE ADDITION, NORTH OF 29TH STREET NORTH, BETWEEN MAIZE AND TYLER. (DISTRICT V) – SUPPLEMENTAL.

Agenda Report No. 05-0398

The City Council approved the water distribution system and paving improvements in Fox Ridge Addition on June 10, 2003. On January 25, 2005 the City approved an Agreement with MKEC Engineering Consultants, Inc. (MKEC) to design the improvements. The Design Agreement with MKEC requires MKEC to provide construction engineering and staking services if requested by the City.

The proposed Supplemental Agreement between the City and MKEC provides for construction engineering and staking for the improvements. Due to the current workload created by previous projects, City crews are not available to perform the staking for this project.

Payment to MKEC will be on a lump sum basis of \$28,000, and will be paid by special assessments.

Motion--
--carried

Mayans moved that the Supplemental Agreement be approved and the necessary signatures authorized. Motion carried 7 to 0.

RELEASE AGRMNT.

RELEASE AGREEMENT WITH MURILLO STUDIOS, IMPROVEMENTS TO CENTRAL RIVERSIDE PARK. (DISTRICT VI)

Agenda Report No. 05-0399

An element of the architect's design for the Riverside Park project was to be a series of twelve historical markers spaced around the edge of the ½ mile long oval-shaped strolling path in Central Riverside Park. Steve Murillo of Murillo Studios was the artist consultant who developed the concept based on brass frames set into twelve limestone monuments. The frames were to be leaf-shaped in recognition of trees native to this area, and a panel with photographic reproductions of historic Wichita with added text was to be located in each brass frame. Murillo, the architects and City representatives worked together to identify and approve the content of the historical markers.

The general contractor for the project, Robl Construction, Inc., hired Murillo Studios as a subcontractor to construct the historical markers. It has become apparent that the historical markers as constructed have a problem because the artwork and its covering has suffered significant damage from a combination of weather and vandalism. A different material has been found for the photographic panels, to replace Murillo's original panels in the brass frames, that will be much more resistant to damage. However, because of the cooperative effort of the architects, Murillo and the City to design the historical markers and select the materials used, it will be necessary for the City to work with the other parties in affecting a solution.

The recommended solution to repair the historical markers and to increase their durability is to use special laminate panels in lieu of the original panel materials, but to do this, the City needs a license to reuse the artwork owned by Murillo Studios. A proposed settlement has been negotiated, the first step of which is for the City to release Steve Murillo and Murillo Studios from all liability related to current and future problems arising from the historical markers in Central Riverside Park in return for the City's right to reuse the art. This Release Agreement accomplishes that goal.

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Steve Murillo is waiving all claims for the remaining \$3200, which Robl Construction has not paid to Murillo Studios for the original installation of the historical markers in return for the City signing the Release Agreement. This \$3200 will remain with Robl Construction to help pay for the reworking of the historical markers with the new laminate panels.

There is no charge associated with this Release Agreement.

Motion--
--carried

Mayans moved that the Release Agreement be approved and the necessary signatures authorized. Motion carried 7 to 0.

GODDARD SCHOOL A WATER DISTRIBUTION SYSTEM FOR A NEW GODDARD SCHOOL BUILDING, NORTH OF KELLOGG, EAST OF 167TH STREET ST. (DISTRICT V)

Agenda Report No. 05-0400

The City Council approved the water distribution system to serve a new Goddard school building on March 22, 2005.

The proposed Agreement between the City and Wilson & Company, Inc. provides for the design of bond-financed improvements consisting of water distribution system to serve a new Goddard school building. Per Administrative Regulation 7a, staff recommends that Wilson be hired for this work, as this firm provided the preliminary engineering services for the platting of the subdivision and can expedite plan preparation.

Payment to Wilson will be on a lump sum basis of \$34,655, and will be paid by special assessments and Water Utility. The utility share is for the cost of over sizing the pipeline to serve future development outside the improvement district.

Motion--
--carried

Mayans moved that the Agreement be approved and the necessary signatures authorized. Motion carried 7 to 0.

WATERWALK CHANGE ORDER: WATERWALK PUBLIC IMPROVEMENTS, NORTH OF KELLOGG, WEST OF MAIN. (DISTRICT I)

Agenda Report No. 05-0401

On March 8, 2005 the City Council approved a construction contract for street and utility improvements associated with the Waterwalk. Due to the restrictive work area, a sanitary sewer wet well lift station needs to be built at this time rather than with a future project. The wet well will require excavation to a depth of 21 feet. Approximately 7 feet of the bottom of the well will be in ground water requiring dewatering. The soil is structured such that the top 8 feet is clay and the bottom 13 feet is sand. The high potential for collapse in the area surrounding the excavation will threaten nearby utilities and also put the new Dewey Street at risk due to loss of lateral support. To construct the wet well later will require an expensive caisson for lateral support to protect the utilities and the street.

A Change Order has been prepared for the additional work that will allow the wet well to be installed now as a part of the street contract. Funding is available within the project budget.

The total cost of the additional work is \$37,895 with the total paid by the Sanitary Sewer Utility. The original amount for the street work is \$638,835. This Change Order represents 5.93% of the original contract amount.

The Change Order amount is within 25% of the construction contract cost limit set by the City Council policy.

Motion--
--carried

Mayans moved that the Change Order be approved and the necessary signatures authorized. Motion carried 7 to 0.

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PROPERTY ACQUISITIONS:

609 S. PINECREST

609 SOUTH PINECREST FOR THE DRY CREEK BASIN PROPERTY ACQUISITION PROJECT. (DISTRICT III)

Agenda Report No. 05-0402

There have been several, flooding incidents along the Dry Creek basin in East Wichita. As a result of this, the City Council approved a voluntary property acquisition program. The program calls for the acquisition of up to 16 residential properties that have habitable floors that are below the one hundred year flood elevation. One such property is 609 South Pinecrest, which is owned by Mr. & Mrs. David Sanders. The site contains 6,750 square feet and is improved with a 1,032 square foot ranch, wood frame residence.

The city had the property appraised in February 2005. The appraised value of \$51,000 was offered to the owner. The owner has agreed to sell the property for this amount. The improvements will be removed and the site maintained as open space.

A budget of \$54,750 is requested. This includes \$51,000 for the acquisition, \$3,000 for demolition and \$750 for closing costs and title insurance. The funding source is the Storm Water Utility.

Motion--
--carried

Mayans moved that the Real Estate Purchase Contract be approved and the necessary signatures authorized. Motion carried 7 to 0.

4902 E. CENTRAL

PART OF 4902 EAST CENTRAL: OLIVER TO WOODLAWN. (DISTRICTS I AND II)

Agenda Report No. 05-0403

On November 4, 2003 City Council approved a project to improve Central, between Oliver and Woodlawn. The improvement plans call for partial acquisitions of seven parcels. One acquisition at 4902 E. Central requires a 325 square foot strip take of land. The property is a multi-tenant occupied building situated on a 6,969.6 square foot site.

The property owner has agreed to accept \$13,525. \$1,300 for the acquisition, \$325 for the temporary easement. \$8,000 for his two commercial tenant's advertising signs and \$3,900 as damages including but not limited to the subject property's store entrance. One of the two signs, the large one of the two, is a customized wooden sign and the sign experts have advised Property Management that it is not possible to move the sign from its current location without permanently damaging the main structure of the sign. The current entrance to the building is impacted by the only possible relocation of the sign on the site.

The funding source for the City share of the project is General Obligation Bonds with Federal monies. A budget of \$15,000 is requested. This includes \$13,525 for the acquisition, and \$1,475 for closing costs and title insurance.

Motion--
--carried

Mayans moved that the Budget and the Real Estate Purchase Contracts be approved and the necessary signatures authorized. Motion carried 7 to 0.

2000 N. GREENWICH

EASEMENTS AT 2000 NORTH GREENWICH ROAD FOR THE NORTHEAST SEWER PROJECT. (DISTRICT II)

Agenda Report No. 05-0404

The City Council has approved the construction of force mains, pump stations, and gravity-flow sewer lines to serve the area along Greenwich Road from ½ mile south of 21st Street North to K-96 highway.

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The project requires one permanent and two temporary easements on this parcel. The permanent sewer easement is 30 feet wide and contains approximately 1.547 acres. The two temporary construction easements contain 2.024 and 1.050 acres. The owner has agreed to grant these easements for \$15,000. This amount also includes money for the replacement of a fence impacted by the easements.

A budget of \$15,500 is requested. This includes \$15,000 for the acquisition, and \$500 for closing costs and title insurance.

Motion--
--carried

Mayans moved that the budget and easements be approved and the necessary signatures authorized. Motion carried 7 to 0.

MULTIMEDIA

PURCHASE OF OPTION, MULTIMEDIA SECURITY SERVICES, INC. (DISTRICT I)

Agenda Report 05-0405

On December 13, 1994, the City Council approved the issuance of \$4.5 million in Industrial Revenue Bonds, Series XIX, 1994, to finance facilities for the benefit of Multimedia Security Service, Inc. Bond proceeds were used to finance the construction and equipping of an international headquarters building located at 700 E. Waterman, in the core area of Wichita.

Under the provisions of Sections 17.1 and 17.2 of the Lease Agreement for Series XIX, 1994 Bonds, Multimedia Security Service, Inc., the tenant has the option if all outstanding bonds and Trustee Fees have been paid to purchase the City's interest for the sum of \$1000. The City of Wichita, on March 29, 2005, received notice from the Trustee that all bonds were paid, and that Multimedia Security Service, Inc. desires to take reconveyance. The City will deliver the instruments needed to terminate its interest in the bond-financed property.

The purchase price is \$1,000 and other considerations as listed under the provision of the Lease Agreement to redeem and retire all outstanding bonds. This price includes without limitations, principal, interest, redemption premium, and all other expenses of redemption, and trustee fees, but after the deduction of any amounts described and provided for in the Lease Agreement and available for such redemption.

The City is contractually bound to convey its interest in the IRB Project property to the Tenant by an appropriate instrument, once all the conditions established in the Lease have been met. The City Attorney's Office has approved the form of the Resolution to authorize the execution of the Termination and Release of Lease and Site Lease Agreement and the delivery of such document following satisfaction of applicable conditions.

Motion--
--carried

Mayans moved that the Resolution approving the Termination and Release of Lease and Site Lease Agreement be adopted and the necessary signatures be authorized with delivery contingent upon satisfaction of all conditions for reconveyance under the Lease Agreement. Motion carried 7 to 0.

RESOLUTION NO. 05-230

A Resolution authorizing the City of Wichita, Kansas, to release certain real property to Protection One Alarm Monitoring, Inc. and prescribing the form of and authorizing the execution and delivery of certain documents in connection therewith presented. Mayans moved that the Resolution be adopted. Motion carried 7 to 0. Yeas: Brewer, Fearey, Gray, Lambke, Martz, Schlapp, Mayans.

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SIDEWALK REPAIR SIDEWALK REPAIR ASSESSMENT PROGRAM.

Agenda Report No. 05-0406

State Law and City Policy provide that sidewalk maintenance is the responsibility of abutting property owners. When sidewalk trip hazards are identified, property owners are required to make repairs, either with their contractor or with the City's contractor. Property owners who use the City's contractor have the opportunity to spread the cost over five years as a special assessment.

An Ordinance has been prepared to establish authority to use special assessment funding for the current list of repaired sidewalks.

Statements of Charges will be mailed to the property owners on May 13, 2005. The property owners have 30 days from date of statement to pay their assessment and avoid paying interest. The interest added to the principal amount will be determined by the rate at which the February 2005 bond sold. The principal and interest will then be spread over 5-years and placed on the 2005 tax roll.

These assessments are in accordance with City Code 12.18.

Motion--
--carried

Mayans moved that the proposed assessments be approved and the ordinance placed on first reading. Motion carried 7 to 0.

ORDINANCE

An Ordinance making a special assessment to pay for the improvement of and providing a tax levy for the cost of construction of sidewalks in the City of Wichita, Kansas, introduced and under the rules laid over.

AMENDING ORD. AMENDING ORDINANCES AND RESOLUTIONS: CENTRAL BETWEEN I-235 FREEWAY AND WEST STREET; BROADWAY BETWEEN KELLOGG AND DOUGLASS; THE K-96 BIKE PATH, FROM OLIVER TO THE EAST CITY LIMITS AND THE 9TH STREET BRIDGE AT THE WESTLINK TRIBUTARY TO COWSKIN CREEK. (DISTRICT I, II, IV, V AND VI)

Agenda Report No. 05-0407

The City of Wichita and the State of Kansas have an ongoing program to match City funds with Federal Transportation Grants to improve arterial streets, bridges, and bike paths. Upon completion of a project the Kansas Department of Transportation audits the actual project costs and makes a final determination on the match that it will provide. In some cases, if the anticipated match is reduced, additional local funds would be needed. That is the case on 3 projects as follows: Central between I-235 Freeway and West Street; Broadway between Kellogg and Douglas, the K-96 Bike Path, from Oliver to the east city limits and the 9th Street Bridge at the Westlink Tributary to Cowskin Creek.

Amending Ordinances and Resolution have been prepared to authorize the budget increases.

The proposed local funding increases are: Central Avenue-\$30,000; Broadway-\$25,000; K-96 bike path-\$5,000; and the 9th Street Bridge-\$10,000. Funding is available from lower than expected expenditures for improvements to the 13th-Hydraulic Intersection and Central, between Maize and Tyler. The funding source is General Obligation Bonds.

Motion--
--carried

Mayans moved that the amending Resolution be adopted and the amending Ordinances placed on first reading. Motion carried 7 to 0.

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RESOLUTION NO. 05-231

A Resolution amending resolution No. R-96-096 of the City of Wichita, Kansas, authorizing the issuance of bonds by the City of Wichita, Kansas, at large for public improvements to construct a Bicycle Path along K-96 Expressway, from Oliver to the east city limits (project No. 472-82675) presented. Mayans moved that the Resolution be adopted. Motion carried 7 to 0. Yeas: Brewer, Fearey, Gray, Lambke, Martz, Schlapp, Mayans.

ORDINANCE

An Ordinance amending Ordinance No. 43-976 of the City of Wichita, Kansas declaring Central Avenue, from the I-235 Freeway to West Street (472-83014) to be a main trafficway within the City of Wichita Kansas; declaring the necessity of and authorizing certain improvements to said main trafficway; and setting forth the nature of said improvements, the estimated costs thereof, and the manner of payment of the same, introduced and under the rules laid over.

ORDINANCE

An Ordinance amending Ordinance No. 44-213 of the City of Wichita, Kansas declaring Broadway, from Kellogg to Douglas (472-82412) to be a main trafficway within the City of Wichita, Kansas; declaring the necessity of and authorizing certain improvements to said main trafficway; and setting forth the nature of said improvements, the estimated costs thereof and the manner of payment of same, introduced and under the rules laid over.

ORDINANCE

An Ordinance amending Ordinance No. 46-189 of the City of Wichita, Kansas declaring 9th Street Bridge at the Westlink Tributary to Cowskin Creek (472-84021) to be a main trafficway within the City of Wichita, Kansas; declaring the necessity of and authorizing certain improvements to said main trafficway; and setting forth the nature of said improvements, the estimated costs thereof and the manner of payment of same, introduced and under the rules laid over.

GRANTING EASMNT GRANTING OF AN EASEMENT ACROSS CITY PROPERTY AT THE 2300 BLOCK OF EAST OF MACARTHUR. (DISTRICT III)

Agenda Report No. 05-0408

On October 19, 2004, the City Council approved a project to eliminate primary treatment at Treatment Plant Number 1. Part of this project involves pressurizing 66-inch sewer line between Treatment Plant Number 1 and Treatment Plant Number 2, thus facilitating the transfer of wastewater to Plant 2 for primary treatment. The pressurization will require increasing the size of the junction boxes along the line. This increase in size will cause a conflict with a jet fuel pipeline that is located in an easement across City-owned property along the south side of MacArthur.

The owner of the jet fuel pipeline has agreed to relocate the line out of the existing easement at the point of conflict. To accomplish this, a new easement must be created. The affected parcel is just east of the entrance to Emery Park. It is titled to the Board of Park Commissioners. Emery Park property is located to the south down an access road. The easement request was approved by the Park Board on April 11, 2005.

Costs associated with the physical relocation of the jet fuel pipeline will be paid out of the project.

Motion--
--carried

Mayans moved that the easements be approved and the necessary signatures authorized. Motion carried 7 to 0.

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ORDINANCES

SECOND READING ORDINANCES: (FIRST READ APRIL 26, 2005)

- a) A05-04R - generally located northeast of the intersection of 29th street north and 119th street west. (District V)

ORDINANCE NO. 46-582

Ordinance including and incorporating certain blocks, parcels, pieces and tracts of land within the limits and boundaries of the City of Wichita, Kansas, read for the second time. Mayans moved that the Ordinance be placed upon its passage and adopted. Motion carried 7 to 0. Yeas: Brewer, Fearey, Gray, Martz, Schlapp, Skelton, Mayans. (A05-04R)

- b) A05-05R - generally located southwest of the intersection of Greenwich Road and 21st Street North. (District II)

ORDINANCE No. 46-583

An Ordinance including and incorporating certain blocks, parcels, pieces and tracts of land within the limits and boundaries of the City of Wichita, Kansas, read for the second time. Mayans moved that the Ordinance be placed upon its passage and adopted. Motion carried 7 to 0. Yeas: Brewer, Fearey, Gray, Martz, Schlapp, Skelton, Mayans. (A05-04R)

NEW BUSINESS

BEAUTY FIRST

FIRST SUPPLEMENTAL AND AMENDING TRUST INDENTURE, BEAUTY FIRST PROJECT. (DISTRICT II)

Allen Bell

Director of Economic Development reviewed the item.

Agenda Report 05-0409

On August 10, 2004, City Council approved the issuance of Industrial Revenue Bonds in an amount not-to-exceed \$3 million, to River Sharpe Properties LLC for the benefit of the Beauty First project. The City Council also approved a 100% five-plus-five year tax exemption on bond-financed improvements. The bonds were used to construct a 12,000 s.f. corporate office building and a 41,000 s.f. warehouse distribution facility. River Sharpe Properties LLC is requesting amendments to the Ordinance and other bond documents to redeem a portion of the Series B, 2004 Bonds with Series A, 2004 Bond proceeds.

At the time the Bonds were issued, the project was completed under budget and as a result, the loan-to-equity ratio (i.e., the Series A-to-Series B ratio) is lower than what was originally agreed to by River Sharpe and Sunflower Bank, N.A., the Series A Bondholder. To reach the agreed upon ratio, River Sharpe would like to redeem a portion of the Series B, Bonds through the use of unspent proceeds of the Series A, Bonds. Sunflower Bank, N.A. was the original Purchaser of and continues to own 100% of the Series A, 2004 Bonds, and River Sharpe Properties LLC was the original Purchaser of and continues to own 100% of the Series B, 2004 Bonds.

Section 1102 of the 2004 Indenture provides that the Owners have the right to consent to execution by the Issuer and the Trustee of an amendment to modify any of the terms or provisions of the Indenture.

There is no financial impact to the City as a result of the amendment. Bond Counsel fees will be paid by River Sharpe Properties, LLC.

Mayor Mayans

Mayor Mayans inquired whether anyone wished to be heard and no one appeared.

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Motion--

Schlapp moved that the Ordinance authorizing the First Supplemental Indenture, amending and supplementing the 2004 Indenture be placed on first reading and the necessary signatures authorized. Motion carried 7 to 0.

--carried

ORDINANCE

An Ordinance prescribing the form and authorizing execution of a first supplemental and amending trust indenture by and between the City and Sunflower Bank, N.A., Salina, Kansas, as Trustee with respect to the City of Wichita, Kansas, taxable Industrial Revenue Bonds, Series IV-A, 2004 (Beautyfirst, Inc. Project) and subordinated taxable Industrial Revenue Bonds, Series IV-B, 2004 (Beautyfirst, Inc. Project), introduced and under the rules laid over.

ZTM, INC.

PUBLIC HEARING AND TAX EXEMPTION REQUEST, ZTM, INC. (DISTRICT III)

Allen Bell

Director of Economic Development reviewed the item.

Agenda Report No. 05-0410

On December 19, 2000, City Council approved a five-plus-five year 98% ad valorem tax exemption to ZTM, Inc. (ZTM) for an expansion that included acquisition of an existing facility and purchase of new manufacturing equipment. On November 20, 2001, City Council also approved a 74.5% five-year tax exemption on acquisition of new manufacturing equipment, and on February 3, 2004, City Council approved a 61% tax exemption on new manufacturing equipment.

Since establishment, ZTM has sustained consistent growth in manufacturing parts for the aerospace industry. ZTM has once again expanded its manufacturing capacity, to include acquisition of new manufacturing equipment in the amount of \$1,109,898. ZTM is now requesting approval of an Economic Development Tax Exemption on acquisition of new manufacturing equipment in conjunction with their expansion.

ZTM located at 4011 E. 31st S. in southeast Wichita, was locally formed in 1996. ZTM is a manufacturer of large, complex precision machine parts and assemblies for the aerospace industry. ZTM mills close-tolerance component aircraft parts in support of Wichita's major aircraft manufacturers. ZTM has assembled an impressive and efficient array of equipment, including 3-axis and 4-axis machines. ZTM also performs tooling and prototype work for the aircraft industry. ZTM utilizes sophisticated computer-controlled manufacturing equipment for their precise milling work. ZTM uses state of the art computer automated part loading, high-speed tool changer and chip removal, for speed and efficiency. Their capabilities include manufacturing parts from aluminum, steel, titanium and inconell.

Staff conducted a site-monitoring visit on March 17, 2005; ZTM is in compliance with all the terms and conditions under which the City granted the 2001 exemption. ZTM currently employs 47 employees, which the company has added 9 new employees since 2004. ZTM projects to add an additional 10 new jobs over the next five years, at an average annual salary of \$58,810.

ZTM's major customers include Boeing Wichita and Boeing Seattle. ZTM exports 100% of all production of out Kansas.

The expansion project is itemized in Exhibit I hereto. Under the Economic Development Incentive Policy, ZTM is eligible for the following property tax abatement:

TAX EXEMPTION ELIGIBILITY

ELIGIBLE %	INCENTIVE	EXPLANATION
44.0%	New Job Creation:	ZTM will create at least 10 new jobs.
18.5%	Capital Improvements:	ZTM will invest at least \$1,109,898.

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62.5%	Sub Total Business - Incentive Eligibility (Maximum allowed is 100%)
00.0%	Location Premium: ZTM is not located in the central redevelopment area.
62.5%	TOTAL EXEMPTION ALLOWED UNDER ECONOMIC DEVELOPMENT INCENTIVE POLICY

Under the Economic Development Incentive Policy, ZTM is eligible for a 62.5% tax exemption on new personal property for a five-year term. A notice of public hearing has been published.

The estimated first year taxes on the proposed \$1,109,898 expansion would be \$26,962 on personal (for the first year) \$16,851 of new taxes from the personal property tax rolls. The tax exemption will be shared among the taxing entities as follows: City - \$4,730; County/State - \$4,498; and USD 259 - \$7,623.

Wichita State University Center for Economic Development and Business Research calculated a cost-benefit analysis indicating benefit-to-cost ratios, which are as follow:

City of Wichita	3.59 to one
Sedgwick County	2.02 to one
USD 259	1.80 to one
State of Kansas	8.80 to one

Mayor Mayans Mayor Mayans inquired whether anyone wished to be heard and no one appeared.

Motion-- Skelton moved that the public hearing be closed and the Ordinance granting a 62.5% tax exemption on the identified personal property improvements for a five-year term be placed on first reading.
--carried Motion carried 7 to 0.

ORDINANCE

An Ordinance exempting property from ad valorem taxation for economic development purposes pursuant to Article 11, Section 13, of the Kansas Constitution; providing the terms and conditions for ad valorem tax exemption; and describing the property of ZTM, Inc., so exempted, introduced and under the rules laid over.

CUSTOM CUPBOARD PUBLIC HEARING AND TAX EXEMPTION REQUEST, CUSTOM CUPBOARDS, INC. **(DISTRICT IV)**

Allen Bell Director of Economic Development reviewed the item.

Agenda Report No. 05-0411

On July 20, 2004, City Council approved a five-plus-five year 97.5% ad valorem tax exemption to Custom Cupboards, Inc. (Custom Cupboards) for an expansion that included construction of a building addition and purchase of new equipment. Custom Cupboards has sustained consistent growth in manufacturing custom built cabinetry. Custom Cupboards has expanded its manufacturing capacity to include construction of additional manufacturing space of 27,750 s.f. and purchase of new machinery and equipment, for a total project cost of \$1,643,086. Custom Cupboards is now requesting approval of an Economic Development Tax Exemption on the building addition and new machinery and equipment in conjunction with their expansion.

Custom Cupboards located at 3738 S. Norman in southwest Wichita, was locally formed in 1981. Custom Cupboards is a leader in high quality, custom-built cabinetry for residential homes and commercial offices. Custom Cupboards, Inc. has two manufacturing facilities and a showroom located in Kansas. It is the largest manufacturer of residential cabinetry in the state. The company manufacturers and sells high quality, custom built cabinetry for the home and office, and sold by approximately 165 dealers in 28 states. Custom Cupboard's products are made-to-order kitchen and

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bath cabinets, desks, bookcases, entertainment, centers, hutches, - all with unlimited custom possibilities in finish and design. On the average, 175 sheets of plywood are cut in the manufacture of cabinets that are built each day. Custom Cupboards offers 70 door styles, 9 wood choices and 1,600 creative colors. In the finish department, beauty is added in the staining, painting, sealing, and a top-coating process. The company has a detail department where the doors and hinges are installed. The special case department adds the appliance garages, pull out shelves, tip out trays, can racks, bread boards, recycling bins, plate/wine/spice racks, valances, super susans, cutlery trays, chop blocks and more.

The main plant and corporate office, which is approximately 174,000 s.f. is located at 3738 S. Norman. Custom Cupboards has another plant with approximately 24,000 s.f. of space located at 2432 S. Sheridan in Wichita which houses the rough mill where the cabinet drawer fronts and face frames are manufactured by approximately 10 employees.

The expansion project includes construction of a 27,750 s.f. building addition and purchase of new machinery and equipment. Custom Cupboards currently employs 192 employees in which the company has added 18 since 2004. As a result of the expansion project, Custom Cupboards projects to add an additional 25 within the next three years. Custom Cupboards exports 95% of all production out of the State of Kansas.

Under the Economic Development Incentive Policy, Custom Cupboards is eligible for the following property tax abatement:

TAX EXEMPTION ELIGIBILITY

ELIGIBLE %	INCENTIVE	EXPLANATION
51.0%	New Job Creation:	Custom Cupboards will create at least 25 new jobs.
24.0%	Capital Improvements:	Custom Cupboards will invest at least \$1,643,086.
75.0%	Sub Total Business - Incentive Eligibility (Maximum allowed is 100%)	
00.0%	Location Premium:	Custom Cupboard is not located in the central redevelopment area.
75.0%	TOTAL EXEMPTION ALLOWED UNDER ECONOMIC DEVELOPMENT INCENTIVE POLICY	

Under the Economic Development Incentive Policy, Custom Cupboards, Inc., is eligible for a 75% tax exemption on new real and personal property for a five-year term and 75% exemption on real property only for a second five-year term, subject to Council review. A notice of public hearing has been published.

The estimated first year taxes on the proposed \$1,643,086 expansion would be \$14,786 on real property improvements, and \$27,244 on personal property, based on the 2004 mill levy. Using the allowable tax exemption of 75.5 percent, the City would be exempting (for the first year) \$31,522 of new taxes from the real and personal property tax rolls. The tax exemption will be shared among the taxing entities as follows: City - \$8,848; County/State - \$8,413; and USD 265 - \$14,260.

Wichita State University Center for Economic Development and Business Research calculated a cost-benefit analysis indicating benefit-to-cost ratios, which are as follow:

City of Wichita	2.79 to one
Sedgwick County	1.85 to one
USD 265	1.79 to one
State of Kansas	8.55 to one

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Mayor Mayans

Mayor Mayans inquired whether anyone wished to be heard and no one appeared.

Motion--

Gray moved that the public hearing be closed and the Ordinance granting a 75% tax exemption on the identified real and personal property improvements for a five year term, and a 75% exemption on real property only, for a further five-year period, subject to City Council review be placed on first reading.

--carried

Motion carried 7 to 0.

ORDINANCE

An Ordinance exempting property from ad valorem taxation for economic development purposes pursuant to Article 11, Section 13, of the Kansas Constitution; providing the terms and conditions for ad valorem tax exemption; and describing the property of Custom Cupboards, Inc. so exempted, introduced and under the rules laid over.

MARRIOTT HOTEL

LETTER OF INTENT FOR OLD TOWN COURTYARD BY MARRIOTT HOTEL PROJECT. (DISTRICT VI)

Allen Bell

Director of Economic Development reviewed the item.

Agenda Report No. 05-0412

Since 1993, it has been the policy of the City of Wichita to support the development of new hotel properties in the downtown area by offering incentives to hotel developers. City staff has been working with a local hotel developer, Jim Korroch of AG Holding, LLC, to identify a package of incentives that will allow Mr. Korroch to purchase an old warehouse in the Old Town area and convert it to a Courtyard by Marriott Hotel. The property is the former Printing Inc. warehouse located at 820 E. Second Street, between Mead and Mosley Avenue. Mr. Korroch has developed other hotel properties that are operated under Marriott brands, and is currently building a new Residence Inn on Greenwich Road near 13th Street. Marriott Hotels has preapproved the Old Town property for a Courtyard by Marriott franchise.

The developer has formed a single-asset business entity, Old Town Lodging LLC, to develop, own and operate the new Courtyard by Marriott Hotel. Old Town Lodging proposes to renovate the two-story former Printing Inc. warehouse and add three additional stories to create space for a hotel with between 106 and 129 guest rooms, a restaurant/ coffee shop, meeting rooms, a fitness center and a large atrium area. The hotel property also includes a surface parking lot across Mosley Avenue to the east and a parking area immediately north of the hotel building. The architect is Law-Kingdon Architects and the general contractor is Dondlinger & Sons. Hotel operations, including the restaurant/coffee shop, are currently projected to create 60 new jobs.

City staff and the development team have negotiated a package of incentives designed to enhance the developer's return on investment and level the playing field between more expensive downtown redevelopment projects and more lucrative commercial developments in suburban areas. The incentive package includes industrial revenue bonds (IRBs), a HUD Section 108 loan under the Biz Loan Program, special assessment financing under the Façade Improvement Program, property and sales tax abatements with a payment-in-lieu-of-taxes (PILOT) and certain infrastructure improvements.

IRBs: Under the proposal, the City will issue three separate series of IRBs in an aggregate amount not-to-exceed \$12 million. A first series of senior lien bonds will be issued and purchased by Old Town Lodging LLC with funds borrowed from local banks. A second series of senior lien bonds will be sold to Old Town Lodging LLC to provide an IRB structure for the Section 108 loan. And a third, subordinated, series of bonds will be purchased by the developers as part of the equity contribution to the project. It is important to finance all "brick and mortar" costs (other than the facade work) as IRBs to maximize the prospects that the financed property will qualify for property and sales tax abatements.

Biz Loan: The City may administratively approve a Section 108 loan without submitting the project to HUD for approval, as long as it qualifies under the Biz Loan program. The Courtyard Hotel project is located within the Neighborhood Revitalization Area (NRA). A participating bank will make a

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matching loan that is at least twice the amount of the Section 108 loan. There must be at least one job created for each \$50,000 of Section 108 loan amount, including any grant funds used for loan reserves or interest payments. The Section 108 loan, under the Biz Loan Program, offers very low interest loans to businesses in the NRA, with no payments the first 12 months (interest paid from a HUD grant) and interest-only payments for the next 24 months. Principal amortization starts in year three and goes for as long as the matching bank loan is in place.

The amount of the Section 108 loan will be determined based on detailed, verifiable employment projections. The City Council is being asked separately to amend the Biz Loan program to increase the amount that can be lent through a HUD Section 108 loan, from its current ceiling of \$333,333 to instead be an amount not more than one-half the amount of the matching bank loan.

Facade Improvements: Under City's Façade Improvement Program, owners of building located on Douglas Avenue between Washington and Seneca may apply for low-cost loans to finance certain types of improvements to the facades of their buildings. A forgivable loan in the amount of \$15,000 per facade, up to two facades, can be made to buildings of three stories or less. The balance of the facade costs may be financed by general obligation bonds paid by special assessments levied against the property over a 15-year period. The program allows the City Council to waive the Douglas-only provision and permit the forgivable loan to be made for projects that exceed three stories. By authorizing the Facade Improvement Program for this project, the City Council also is allowing the program to be used for projects that convert a buildings use. The amount of the improvements to be financed under this program is limited to \$1.5 million in order to allow the financing to be included in a regular City bond sale as tax-exempt bonds.

Property and Sales Tax Abatements: The Courtyard Hotel Project is located within the Old Town Cinema Redevelopment District and the project will add significantly to the redevelopment district's tax base. However, due to shortfalls in tax increment revenue resulting from the Old Town Cinema project, tax increment financing (TIF) is not available for the Courtyard Hotel Project.

As an alternative to TIF, the City is offering a partial property tax abatement. The Courtyard property is located outside of the Old Town Cinema "project area" and is therefore eligible for property tax abatement if financed by IRBs. To ensure that the project makes a meaningful contribution to the Old Town Cinema TIF, the developer will make annual payments-in-lieu-of-taxes of \$45,000 (less any taxes actually paid) for as long as the tax abatement remains in place. Current annual ad valorem taxes on the property are approximately \$11,000. The developer estimates that real estate taxes would be approximately \$114,000 when the hotel is fully "ramped-up." The term of the property tax abatement and PILOT will be five years, plus a second five years subject to City Council review and approval.

In addition to property tax abatement, the City will file the necessary paperwork to apply for a sales tax exemption on items and materials purchased with the proceeds of IRBs and special assessment bonds.

Parking: The Courtyard Hotel is expected to provide approximately 90 off-street parking spaces on private land. The off-street parking requirement in the zoning ordinance is one parking space for each hotel guest room. To cover the deficit, the Courtyard Hotel will participate in the Old Town Parking District and pay prevailing Old Town parking rates to the City.

Infrastructure Improvements: The developer has requested assistance from the City with the brick paving of Mosley Avenue from Second Street to the north property line of the hotel property. City staff have offered to facilitate special assessment financing of the costs, assuming the developer provides a 100% benefit district petition. A signalized crosswalk is also requested, but is not warranted by pedestrian traffic counts at this time. Any future crosswalk will be warranted and paid for by the developer.

Permits/Signage: The developer plans a drive-through window on the Rock Island Avenue side of the hotel. The City will administratively process a minor street permit for this purpose. City staff will expedite the issuance of building permits and inspections. Signage will be subject to approval of the local Historic Preservation Board.

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Old Town Lodging, LLC agrees to pay all costs of issuing the bonds and agrees to pay the City's \$2,500 annual IRB administrative fee for the term of the bonds. The estimated taxes on exempted property for the first full year is approximately \$114,000 in real estate taxes and \$30,000 for personal property. In lieu of taxes, the property owner will pay the City \$45,000 per year, which the City by law must remit to the County Treasurer for distribution to the City, County and USD 259. Most of the PILOT payment will be returned to the City as part of the TIF distribution for the Old Town Cinema District.

Funding for the forgivable loan portion of the Facade Improvement Program in the amount of \$30,000 is available in a special project fund appropriated for that purpose.

The cost/benefit analysis based on the fiscal and economic impact model of the Wichita State University's Center for Economic Development and Business Research reflects cost/benefit ratios as follows:

City of Wichita	2.13
Sedgwick County	1.41
USD 259	1.14
State of Kansas	4.52

The Letter of Intent was prepared by the City Attorney's Office based on terms and structure provided by the City's negotiating team, and is approved as to form. Applicable letter of intent conditions are included in the Letter of Intent. The condition relating to inclusive procedures for the selection of contractors recognizes that the general contractor and architect have been preselected. Bond documents will be drafted by the City's outside bond counsel and will be reviewed and approved as to form by the Law Department prior to the issuance of any bonds. Bond documents will incorporate the clawback requirements in the City's new Economic Development Incentive Policy. Changes to the City's standard Section 108 Loan Program documents may be needed to fit the proposed transaction.

Council Member Martz Council Member Martz stated that he would like clarification regarding the TIF District and how it works. Stated that he thought that all of Old Town was a TIF District.

Allen Bell Director of Economic Development explained that there are actually two Old Town TIF Districts. Stated that the original TIF District for Old Town was from Douglas up to Second Street and that entire area was also designated as the project area. Stated that under state law there is a distinction between the redevelopment district and the project area and state law does not allow cities to grant property tax exemptions within the project area but they do allow exemptions within the greater redevelopment district. Stated that in their negotiations they were reluctant in giving a tax exemption because they need that money for the tax increment financing district but in order to make the project work, they compromised and negotiated that payment in lieu of taxes.

Council Member Gray Council Member Gray stated that he is uncomfortable with the format that was provided on the agenda report and it is different than the others that have been provided on other IRBs. Stated that he had to keep flipping through the pages to find the information that should have been provided where he was reading it. Stated that he called several hotels to get information as far as what their vacancy rates in the downtown area are and then he called hotels in the Wichita area to find out if 60 jobs is somewhat correspondent with the total number of rooms that you are estimating, which is 120 rooms. Stated that one of the things he found when he called hotels that had similar size, is that they were operating with full time equivalent employees of about 25 for a hotel with about 120 rooms. Stated that hotel staff does not make that much money, these are not \$30,000.00 a year average jobs. Stated that the hotels that he talked to, half of their staff are part-time and make about \$8.00 and \$9.00 an hour. Stated that he finds the job creation aspect questionable.

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- Allen Bell Director of Economic Development stated that they have also questioned the number of jobs and the developer is willing to commit to that and at the end of five-years if he has not created 60 jobs, then they will have the clawbacks, which would probably force the company into bankruptcy. Stated that hotels do generate lower paying jobs but they are a crucial part of our economic package, especially in the downtown area. Stated that every project cannot be treated equally when it comes to job creation issues from a salary standpoint and the number of jobs. Stated that there are certain types of projects that have an overriding public policy justification and thinks that a downtown hotel would fit into that category. Stated that regarding the 60 jobs, this is not the full-time equivalent but the head count and the clawbacks will be based on full-time equivalent jobs as required by the City's incentive policy.
- Council Member Gray Council Member Gray stated that when the Council Members receive the agenda reports they are led to believe that the number of jobs that are sited are full-time equivalent jobs and hopes that in the future that staff could be more descriptive. Stated that the economic contribution to the community has a lot to do with the amount of money that they make. Stated that regarding the Biz Loan Program, he thought that was to assist small businesses and had an operating range of \$50,000 to \$500,000.00 and we have a limited amount of funds that we get appropriated on an annual basis and we are going to go outside of that process and raise the capital to 1.3 million dollars, which erodes any available funds through that program and goes outside of the original intent of that program. Stated that as he looks at all of these incentives that were put together, it is like we did everything we possibly could to figure out a way to give these developers more money to build a hotel downtown. Stated that there are already five hotels downtown and most of them are doing very well. Stated that if we have other hotels that are doing so well, it should be able to stand on its own. Stated that part of the downtown redevelopment was that we would spur development and a lot of things to get development going in this area but as we bring these new businesses that are suppose to be the businesses that contribute to the tax base, we are going to figure out a way that they do not have to contribute to the tax base for the next ten years. Stated that he feels this project would probably do well on it's own and that he has a lot of discomfort with this.
- Council Member Brewer Council Member Brewer stated that the Council recognizes the fact that we anticipate growth and that is our plan. Stated that no one can argue the need of an additional hotel and it is our intent as a City to try and generate more visibility, more tourism and more activity in the downtown area. Stated that this is part of the preparation and plan for the future and he understands and sees the need for additional hotels.
- Mayor Mayans Mayor Mayans inquired whether anyone wished to be heard.
- Jim Korroch Mr. Korroch stated that he is the president and developer of this project and that they are also developing the Residence Inn Hotel by Marriott in Plazzio on the east side of town. Stated that they did not come to the Council for any help of that project, which is an 8 million dollar project. Stated that this particular hotel is going to be a first class business and leisure hotel for the City of Wichita and they will be taking an old abandoned warehouse, which was built in 1939 and turn it into a first class hotel. Stated that they are creating 60 new jobs and technically 37 of them will be full-time equivalent positions. Stated that they are excited about this hotel and the Marriott Courtyard Hotel is the world leader business hotel and the most recognized business hotel in the world. To bring something like this to downtown Wichita from a hotel developer's experience, it really says something about what is going on in Old Town and the future of Old Town and its future as well.
- Council Member Fearey Council Member Fearey stated that approving this would do a lot for the City and for Old Town. Stated that right now we have a building that is sitting there that is paying minimal property tax and to think that anyone is going to be able to come in and do the building just like it is and bring the property tax into help that TIF District, is slim. Stated that this does bring jobs and fill a niche for people who need those types of jobs and can live near the area. Stated that on the Biz Loan Program, it is her understanding that if we do not use some of those funds we will lose them. Stated this is a way that we can use them to help our local economy. Stated that regarding the façade loan easement, we have made exceptions to that in the past to help people.

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- Council Member Skelton Council Member Skelton stated that his concerns for this project are the number of jobs that are going to be created, the Wichita Biz Loan is originally designed for small business and we need to keep it for small business and has concerns with the use of the Façade Improvement Program and also taking into the consideration the number of hotels that we currently have downtown. Stated that he will not be voting in favor of this project.
- Council Member Martz Council Member Martz stated that he will support this today but is going to strongly encourage staff not to do anymore tax abatements in the TIF District and in order to make it survive we must not have any more tax abatements in this area because we have enough financial challenges in this area and we need to develop what properties are left. Asked if in the future if it would be possible to not only discourage abatements but to have an agreement with anybody that goes in there that they will not appeal the appraisals. Stated that in the future he will not support any additional abatements because we have to have more money in this area.
- Motion-- Fearey moved that the Letter of Intent to issue not-to-exceed \$12 million in Industrial Revenue Bonds for Old Town Lodging, LLC to develop the Courtyard by Marriott Hotel in Old Town; the necessary waivers to allow the use of the Façade Improvement Program up to the amount of \$1.5 million; and a Section 108 loan under the Biz Loan Program be approved; a 100% property tax abatement on all bond-financed property for an initial five-year term, plus a second five years based on City Council review and approval, subject to an annual payment-in-lieu-of-taxes in the amount of \$45,000 less actual taxes paid be approved; that Staff be authorized to apply to the Kansas Department of Revenue for a sales tax exemption on all bond-financed purchases and that the necessary signatures be authorized. Motion carried 5 to 2, (Skelton and Gray-no.)
- carried

BIZ LOAN PROG.

ORDINANCE TO AUTHORIZE SECTION 108 WICHITA BIZ LOAN PROGRAM AMENDMENTS.

Mary K. Vaughn Director of Housing Services reviewed the item.

Agenda Report 05-0413

On November 20, 2001 the City Council approved the original ordinance and execution of the HUD Section 108 Contract for Loan Guarantee Assistance and EDI funding agreements. On December 16, 2003 the City Council amended the ordinance to change the name of the program from the "Business Assistance Program" to the "Wichita Biz Loan Program"; designated INTRUST Bank, N.A. as custodian of certain accounts and security documents required by the HUD contract for Section 108 loan guarantee assistance; and authorizes the participating banks to extend conventional loans to potential borrowers as well as loans supported by the SBA guaranteed loan program. Bank conventional loans will continue to be subject to the terms of the Operating and Co-Guaranty Agreements. The December 16, 2003 revision also authorizes the Co-Guaranty Agreement and Operating Agreement with Commercial Federal Bank and such other banks as may elect to participate in the program and permits the City to authorize the lender to provide the full amount of the loan from bank funds pending City draw down of HUD Section 108 funds. The current prepared revision will amend the ordinance, to eliminate the maximum loan amount allowable for any one project for the Wichita Biz Loan Program.

The proposed revision will authorize the City to modify the provision limiting the minimum amount of HUD Section 108 Loan(s) to any Business Borrower under the Wichita Biz Loan Program to \$8,333.33 and specifies that the maximum may not exceed the total funds then available.

HUD has approved the Section 108 Loan Guarantee funds in the amount of \$3 million to serve as a portion of the loan pool. The availability of funds from the Section 108 Loan Guarantee program ends September 30, 2006. The availability of funds from the Economic Development Initiative grant will terminate on September 30, 2005. The EDI grant provides funding up to \$750,000 for the Wichita Biz Loan program loan loss reserve.

Upon passage of the revised ordinance, and publication of a public notice under the HUD guidelines, the City will have met the requirements necessary to authorize the amendment that will allow any

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Business Borrower under the “Wichita Biz Loan” program to receive a loan not to exceed the total funds then available.

Mayor Mayans

Mayor Mayans inquired whether anyone wished to be heard and no one appeared.

Motion--
--carried

Mayans moved that the Ordinance be placed on first reading and the publication of the required public notice be authorized. Motion carried 6 to 1, (Gray-no).

ORDINANCE

An Ordinance of the City of Wichita, Kansas, further amending Section 4 of Ordinance No. 45-497, repealing the prior version of such section and repealing Section 3 of Ordinance No. 45-942, introduced and under the rules laid over.

PARK LAND

NAMING OF PARK LAND AT 3500 E. CESSNA AND 1340 S. PATTIE. (DISTRICTS I, II, AND III)

Doug Kupper

Director of Parks and Recreation reviewed the item.

Agenda Report No. 05-0414

City Council Policy 13 delineates the requirements for naming public facilities “... in accordance with their intended use ...”. The policy calls for a seven-member committee consisting of residents appointed by the Mayor and City Council to formulate the recommendation prior to City Council consideration. On March 4, 2003, the City Council approved the official naming committee to be the Board of Park Commissioners.

The City acquired the former Linwood Elementary School in 2004 in exchange for land at Linwood Park to construct a new school. Along with the land, the City also received the multi-purpose building for a community center.

Also in 2004, the City Council approved converting 10 acres under Stormwater Management to Park and Recreation to be added to seven acres of existing Park Board-owned land. This conversion created a new park in the Planeview neighborhood to replace the three acres in Planeview, the tract that was sold in 2003.

The Park Board met on April 11, 2005, to consider several names for these new sites. By a unanimous vote, they recommended naming the new park at 1340 S. Pattie “Goldenrod Park.” The Board also unanimously recommended naming the new community center the “George F. Williams Community Center.” In addition, they unanimously recommended naming the new park in the Planeview neighborhood “Stearman Park.” Also by unanimous vote, the Board recommended that the bike path commonly known as the Gyp Creek Bike Path be named the “Sylvia Hirahara-Hartley Bike Path and Trail.”

Mayor Mayans

Mayor Mayans inquired whether anyone wished to be heard and no one appeared.

Motion--

--carried

Mayans moved that the site at 1340 South Pattie be named “Goldenrod Park”; the new facility at 1340 S. Pattie be named the “George F. Williams Community Center”; the site in Planeview be named “Stearman Park”, and the bike path along Gyp Creek be named the “Sylvia Hirahara-Hartley Bike Path and Trail.” Motion carried 7 to 0.

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ICE SPORTS

ICE SPORTS. (DISTRICT IV)

Doug Kupper

Director of Parks and Recreation reviewed the item.

Agenda Report No. 05-0415

In 1996, the City signed a 15-year management agreement with Canlan Ice Sports Corp. to manage and operate Ice Sports-Wichita.

Over the life of the contract, up to and including 2001, Ice Sports-Wichita generated enough revenue to pay all expenses, including a 5% management fee, as well as a tiered sharing of the profits with Canlan Ice Sports Corp. of Canada.

Starting in 2002, Ice Sports-Wichita started to experience losses in overall revenues, similar to all entertainment and recreational businesses in this area. Due to significant operating account balances, these losses did not start to require any additional subsidy from the City until August 2004. At that time, the City Council authorized a subsidy of \$44,000 with the understanding that Ice Sports-Wichita would pay back the funds.

From September 2004 to the present, the Park and Recreation Department has met with and work to wards an improved marketing plan, cost savings, and efficiency plan with Canlan ice Sports Corp. Canlan Ice Sports Corp. has put together a comprehensive three-year plan that shows how they plan to improve operations and revenues. By the year 2007, they are forecasting to be back "in the black". However, it is now apparent that Ice Sports-Wichita cannot stay open this year or next without further operating subsidies.

Projected losses for Ice Sports-Wichita for 2005 through 2006 are: \$117,000 and \$26,695, and projected net income for 2007 is \$589. In lieu of two years of net losses, Ice Sports-Wichita is requesting net working capital subsidies of \$120,000 in 2005 and \$25,000 in 2006. The current agreement provides for the City to pay a Management Fee to Canlan. The City currently owes management fees of approximately \$105,000 to Canlan, but such funds have been withheld because of the current financial problems. Funding to pay for expenses and subsidies through the management transition period shall come from any and all revenues generated or General Fund reserves.

The provisions of the existing agreement obligate the City to pay a management fee to Canlan. The City has the authority to negotiate an early termination of the agreement.

Council Member Gray Council Member Gray stated that he does not want this RFP kept opened and would like it to be moved forward as quickly as possible.

Mayor Mayans Mayor Mayans inquired whether anyone wished to be heard and no one appeared.

Council Member Martz Council Member Martz stated that he is a big supporter of the ice rink and thinks it is a good amenity to have and has served well and would like to keep it open, but he is opposed to the subsidizing of this facility. Stated that Canlan has been operating this for a number of years and it has gone down and he feels that it is time that we look at a different way of operating and managing it and hopes that all of the local jobs would be retained. Stated that he has a struggle in subsidizing to continue this.

Doug Kupper Director of Parks and Recreation explained that the recommended action is to allow us to get funding from the finance department to cover our expenses while we look for a new management firm and not necessarily paying Canlan a subsidy, unless that is the Council's direction. If we do not generate enough revenues, which is what we are forecasting for the next three months, to keep this facility open we will have to get funding from some place to pay the bills.

Mayor Mayans Mayor Mayans asked if the Council were to strike number two from the recommended action, which is to authorize payment of expenses and subsidies necessary to keep the Ice Sports-Wichita facility open during the transition in operators, what would that mean.

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- Doug Kupper Director of Parks and Recreation explained that they would functionally end up closing the facility down at that point in time.
- Mayor Mayans Mayor Mayans stated that after closing the Indian Center, we have been somewhat successful, and restarted back up new and improved and that now is a slow season and if the Council were to take this action, this would be the best time to do it.
- Doug Kupper Director of Parks and Recreation stated that in regards to the power plant and the ice making equipment, if we close the facility, it may cost more to try and start it up again because of the compressors laying idle and not functioning.
- Council Member Gray Council Member Gray stated that his recommendation is to make a motion to only include one and three and it will not include two, the subsidy at this time. Stated that if we have to have some operational dollars to keep the ice frozen, then he would request that Doug Kupper bring a plan and show us exactly what it is going to cost to keep the ice frozen and keep the building in a suitable condition. Stated that even though this is a slow period for hockey and public use, it is a very rich period of time for the figure skaters, which they could use for practice and then get with that group and see if we can work out an arrangement with them to allow them to utilize the ice for a certain number of hours per day, within a specific period of time and you would just need someone to open up the facility and run the Zamboni and we would be able to generate some revenue off of their usage of that ice.
- Motion-- Gray moved that the staff be authorized to negotiate an end of the contract with Canlan Ice-Sports Corporation and authorize the issuance of an RFP to select a new management company within 90 days and for staff to bring a plan back to the Council that would show what the actual cost of maintaining the facility as minimally as possible and still provide the potential for the usage of the figure skaters to use the ice for a couple of hours on a set schedule to generate revenue to help with those on-going maintenance costs.
- Council Member Fearey Council Member Fearey stated that we are going to want a plan back to the Council before 90 days and thinks that a time line should be included in the motion.
- Amended Motion--** Council Member Gray amended his motion to add a time line of one week for a plan to be brought back to the Council Members.
- carried Motion carried 7 to 0.

POOLS, SPAS

REVISION OF CHAPTER 7.72-POOLS, SPAS AND OTHER WATER FEATURES.

- Kay Johnson Director of Environmental Services reviewed the item.
- (Council Member Skelton momentarily absent).

Agenda Report No. 05-0416

Current City pool standards were enacted in 1990. In recent years, awareness of the risk of recreational water borne illness has increased. (The Centers for Disease Prevention and Control reports that recreational water borne disease outbreaks are at an all time high.) The present code is not consistent with current generally accepted standards for health and safety.

The number of pools operated by homeowners' associations, apartment complexes, health clubs, and lodging facilities has increased in recent years. Standards previously developed primarily for "public" general use pools are not always flexible enough to accommodate these facilities.

Separate standards presently exist for swimming pools and spas, requiring operators to be familiar with two sets of regulations. In addition, non-traditional recreational facilities, such as interactive fountains, have been introduced into the community for recreational purposes since adoption of the present code. These water features are not covered by current pool or spa standards, and present unique needs due to their construction and mode of operation.

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The proposed code revisions incorporate current recommendations from the National Spa and Pool Institute (the major industry association) and the Centers for Disease Prevention and Control. Changes proposed are targeted toward increasing the safety of recreational water, enhancing the safety of citizens using these facilities, and clarifying regulatory requirements for operators.

Environmental Services staff met with approximately 60 stakeholders at several different meetings to solicit input on the content of the proposed ordinance revision. General comments focused on the need and importance of good public education and operator information. Participants included homeowners associations and apartment complex operators, lodging facility and health club operators, water safety authorities such as the Red Cross and YMCA, and staff from the City's Parks and Recreation Department.

The proposed revision provides a single comprehensive set of regulations for all types of recreational water facilities that is consistent with current recommendations from industry and public health authorities. Requirements are clear and understandable, science based, and within the capabilities of operators for compliance.

Fees have not been adjusted since adoption of the current codes in 1990. The proposed schedule of fees will continue to support routine inspections, education of and consultation with operators, and investigation of public complaints. Proposed fees also take into account the differing levels of service required by seasonal and year-round operations, and locations with multiple facilities. Licenses currently generate \$26,200; under the proposed fee, revenue will increase by \$16,450 to generate a total of \$42,650 in license revenue, based on the current number of facilities. Environmental Services will submit a proposal during the upcoming budget process to use a portion of additional revenue (\$10,070 – salary for additional contract staff, sampling supplies, and copies of code/educational materials for pool operators, etc.) to provide “off-season” services for pools and spas that operate throughout the entire year. The remainder of the increase will help to offset increased inspection activities during the spring and summer season. Revenue from licenses will continue to provide full funding for all efforts related to these facilities.

(Council Member Brewer momentarily absent).

Mayor Mayans

Mayor Mayans inquired whether anyone wished to be heard and no one appeared.

Motion--
--carried

Mayans moved that the revision of Chapter 7.72 of the City Code be approved and the ordinance placed on first reading. Motion carried 7 to 0.

ORDINANCE

An Ordinance amending Sections 7.72.010, 7.72.020, 7.72.030, 7.72.040, 7.72.050, 7.72.060, 7.72.070, 7.72.080, 7.72.090, 7.72.100, 7.72.110, 7.72.120, 7.72.130, 7.72.140, 7.72.150, 7.72.160, 7.72.170, 7.72.180, 7.72.190, 7.72.200, and 7.72.220 and repealing existing versions of those Code Sections of the City Code and enacting new Sections 7.72.03, 7.72.095, 7.72.121, 7.72.191, 7.72.193, 7.72.197, 7.72.201, 7.72.202, 7.72.230 and repealing existing Section 7.72.210 of the Code of the City of Wichita, Kansas pertaining to swimming pools, introduced and under the rules laid over.

HYDRAULIC IMP.

HYDRAULIC IMPROVEMENT BETWEEN 57TH STREET SOUTH AND 63RD STREET SOUTH. (DISTRICT III)

Jim Armour

City Engineer reviewed the item.

(Council Member Schlapp momentarily absent).

Agenda Report No. 05-0417

The 2002-2011 Capital Improvement Program adopted by the City Council included a project to improve Hydraulic from MacArthur to 57th St. South. Construction of the portion between MacArthur

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and 47th St. South has been completed. Construction is well underway in the area between 47th St. South and 57th St. South. Continuing the improvement south from 57th St. South to 63rd St. South will provide an improved transportation corridor to Wichita's south city limits. Prior to Wichita's annexation of the area, Sedgwick County's Capital Improvement Program included funding for the project. The County has acquired needed right-of-way, paid design expenses, and will contribute \$500,000 to pay part of the construction cost. District III Advisory Board sponsored a December 1, 2004 neighborhood hearing on the project. The Board voted 7-0 to recommend approval of the project. On December 14, 2004, the City Council approved an agreement with Sedgwick County that provides for the County's contribution to the project.

The project will reconstruct Hydraulic to provide four through lanes and a center two-way left turn lane. A new bridge will be built over the Riverside drainage ditch. A storm water sewer will be constructed. The available right-of-way will be landscaped. The project is planned for letting this year. An estimated four-month Hydraulic closure will be needed for the bridge replacement.

The estimated project cost is \$2,500,000 with \$2,000,000 paid by the City and \$500,000 paid by the County. The funding source for the City share is General Obligation Bonds. Funding is available from under expenditures in the previous Hydraulic projects.

Mayor Mayans

Mayor Mayans inquired whether anyone wished to be heard and no one appeared.

Motion--
--carried

Skelton moved that the project be approved and the Ordinance placed on first reading. Motion carried 6 to 0, (Schlapp absent).

ORDINANCE

An Ordinance declaring Hydraulic, between 63rd St. South and 57th St. South (472-84118) to be a main trafficway within the City of Wichita, Kansas; declaring the necessity of and authorizing certain improvements to said main trafficway; and setting forth the nature of said improvements, the estimated costs thereof, and the manner of payment of same, introduced and under the rules laid over.

WHISTLING WALK BENEFIT FEE

PETITION TO ASSESS A SANITARY SEWER MAIN BENEFIT FEE TO THE WHISTLING WALK ESTATES ADDITIONS, SOUTH OF 13TH, WEST OF 119TH STREET WEST. (DISTRICT V)

Jim Armour

City Engineer reviewed the item.

Agenda Report No. 05-0418

The signatures on the Petition represent 29 of 57 (50.88%) resident owners and 43.94% of the improvement district area.

The project will provide sanitary sewer main service to a developed residential area. The area is currently served by private septic tank systems.

The estimated project cost is \$102,575, with the total assessed to the improvement district. The method of assessment is the fractional basis. The estimated assessment to individual properties ranges from \$2,137 to \$9,325, depending on the lot size.

State Statutes provide that a Petition is valid if signed by a majority of resident property owners or owners of the majority of the property in the improvement district.

Mayor Mayans

Mayor Mayans inquired whether anyone wished to be heard and no one appeared.

Motion--carried

Martz moved that the Petition be approved and the Resolution adopted. Motion carried 7 to 0.

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RESOLUTION NO. 05-232

Resolution of findings of advisability and Resolution authorizing construction of Main 4, Northwest Interceptor Sewer (south of 13th, west of 119th street west) 468-84006, in the City of Wichita, Kansas, pursuant to findings of advisability made by the Governing Body of the City of Wichita, Kansas, presented. Martz moved that the Resolution be adopted. Motion carried 7 to 0. Yeas: Brewer, Fearey, Gray, Lambke, Martz, Schlapp, Mayans.

WHISTLING WALK SEWER LATERAL

PETITION TO CONSTRUCT A SANITARY SEWER LATERAL TO SERVE THE WHISTLING WALK ESTATES ADDITIONS, SOUTH OF 13TH STREET, WEST OF 119TH STREET WEST. (DISTRICT V)

Jim Armour

City Engineer reviewed the item.

Agenda Report No. 05-0419

The signatures on the Petition represent 29 of 54 (53.7%) resident owners and 53.63% of the improvement district area.

The project will provide sanitary sewer service to a developed residential area. The area is currently served by private septic tank systems.

The estimated project cost is \$211,000, with the total assessed to the improvement district. The method of assessment is the fractional basis. The estimated assessment to individual properties ranges from \$5,090 to \$22,211, depending on the lot size.

State Statutes provide that a Petition is valid if signed by a majority of resident property owners or owners of the majority of the property in the improvement district.

Mayor Mayans

Mayor Mayans inquired whether anyone wished to be heard and no one appeared.

Motion--carried

Martz moved that the Petition be approved and the Resolution adopted. Motion carried 7 to 0.

RESOLUTION NO. 05-233

Resolution of findings of advisability and Resolution authorizing construction of Lateral 6, Main 4, Northwest Interceptor Sewer (south of 13th, west of 119th street west) 468-84005, in the City of Wichita, Kansas, pursuant to findings of advisability made by the Governing Body of the City of Wichita, Kansas, presented. Martz moved that the Resolution be adopted. Motion carried 7 to 0. Yeas: Brewer, Fearey, Gray, Lambke, Martz, Schlapp, Mayans.

WHISTLING WALK

PETITION TO CONSTRUCT A WATER DISTRIBUTION SYSTEM TO SERVE THE WHISTLING WALK ESTATES ADDITIONS, SOUTH OF 13TH STREET, WEST OF 119TH STREET WEST. (DISTRICT V)

Jim Armour

City Engineer reviewed the item.

Agenda Report No. 05-0420

The signatures on the Petition represent 30 of 57 (52.63%) resident owners and 55.57% of the improvement district area.

The project will provide water service to a developed residential area. The area is currently served by private water wells.

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The estimated project cost is \$189,000, with the total assessed to the improvement district. The method of assessment is the fractional basis. The estimated assessment to individual properties ranges from \$3,937 to \$17,178, depending on the lot size.

State Statutes provide that a Petition is valid if signed by a majority of resident property owners or owners of the majority of the property in the improvement district.

Mayor Mayans

Mayor Mayans inquired whether anyone wished to be heard and no one appeared.

Motion--carried

Martz moved that the Petition be approved and the Resolution adopted. Motion carried 7 to 0.

RESOLUTION NO. 05-234

Resolution of findings of advisability and Resolution authorizing construction of Water Distribution System Number 448-90071 (south of 13th, west of 119th street west) in the City of Wichita, Kansas, pursuant to findings of advisability made by the Governing Body of the City of Wichita, Kansas, presented. Martz moved that the Resolution be adopted. Motion carried 7 to 0. Yeas: Brewer, Fearey, Gray, Lambke, Martz, Schlapp, Mayans.

TRANSIENT MERCH. ORDINANCE AMENDMENTS, SECTIONS 3.95.080 AND 3.95.120, RELATING TO TRANSIENT MERCHANTS.

Gary Rebenstorf

Director of Law reviewed the item.

Agenda Report No. 05-0421

In 2003, the transient merchants ordinances were amended to address traffic, parking, noise and other complaints made by the citizens of Wichita regarding activities of transient merchants.

The City of Wichita through its' Community Event Committee is working to establish a process for permitting community events to use City streets, parks, and city-owned facilities. The committee is seeking to develop a coordinated process for managing community events to ensure the health and safety of event patrons, residents, workers, and other visitors; to prohibit illegal activities from occurring at the community events; and to protect the rights of community event permit holders.

As part of this permit process, conflicts have developed regarding certain provisions of the transient merchant ordinances, which limit the number and placement of vendors, and plans for certain community events.

The proposed amendments except certain provisions of the transient merchant ordinances regarding location and number of transient merchant vendors from events which have been approved and sanctioned by the City of Wichita's Community Event Committee. The committee, in approving requests for such events, and the placement of vendors, will develop guidelines for the placement of such vendors which will include the distance from residential areas, the size of the zoning lot, the total number of vendors allowed for each lot, and any traffic or safety concerns related to the placement of any such vendors. All other prohibitions regarding conduct of transient merchants, and the requirements that such vendors be licensed are not changed by the proposed amendments.

Amendments are also made to bring the ordinance into compliance with state law. K.S.A. 12-1617 prohibits licensing and occupation taxes on producers and growers of farm and garden products grown within the state.

Mayor Mayans

Mayor Mayans inquired whether anyone wished to be heard and no one appeared.

Motion--
--carried

Mayans moved that the Ordinance be placed on first reading and the necessary signatures authorized. Motion carried 7 to 0.

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ORDINANCE

An Ordinance amending Sections 3.95.030, 3.95.080 and 3.95.110 of the Code of the City of Wichita, Kansas pertaining to transient merchants and temporary sales of certain merchandise within the City, and repealing the originals of said Sections, introduced and under the rules laid over.

PLANNING AGENDA

Motion--
--carried

Mayans moved that the Planning Consent Items 32 through 40 be approved as presented. Motion carried 7 to 0.

(Agenda Item No. 31)
ZON2004-67

ZON2004-67-ZONE CHANGE FROM LIMITED COMMERCIAL AND MULTI-FAMILY RESIDENTIAL TO GENERAL COMMERCIAL. GENERALLY LOCATED AT THE SOUTHWEST CORNER OF HYDRAULIC AVENUE AND 13TH STREET NORTH. (DISTRICT I)

John Schlegel

Planning Director reviewed the item.

Agenda Report No. 05-0422

MAPC Recommendations: Approved (6-3) "GC" General Commercial zoning with Protective Overlay #154.

MAPD Staff Recommendations: Deny.

DAB Recommendations: DAB I voted (8-0) to deny the request for "GC" zoning with the Protective Overlay, but rezone the "B" Multi-family Residential zoned lot to "LC" Limited Commercial, to match the rest of the site's "LC" zoning.

(Mayor Mayans momentarily absent, Vice-Mayor Schlapp in the chair).

The applicant requests a zone change from "LC" Limited Commercial and "B" Multi-family Residential to "GC" General Commercial on Lots 289 – 295, the Granville Park Addition. Lots 289-294 are currently zoned "LC" and Lot 295 is zoned "B". The subject properties are located on the southwest corner of Hydraulic Avenue and 13th Street North. The applicant proposes redevelopment of the property for used car sales and auto bodywork and painting. The "GC" zoning district allows outdoor vehicle and equipment sales and auto bodywork and painting.

The subject site currently has a vacant 1,000 square foot gas station building on it. The applicant proposes to build an additional 2,400 square foot building behind it for auto mechanical work, bodywork and painting. The applicant proposes to use the vacant building as office space for both of the proposed uses. The applicant has proposed to enclose the area where the paint and body works will be located with a privacy fence, a 5-foot landscape buffer on its south side where it abuts the American Legion Hall, and on its east and west sides where it is adjacent to residential zoning. The applicant has also proposed to close the entrances onto the site from Pennsylvania Avenue.

East of the subject site and across Hydraulic Avenue are a dentist office, zoned "LC", and single-family residences, zoned "LC" and "B". South of the subject site there is American Legion Post 273, zoned "LC", and single-family residences, zoned "B" and "SF-5" Single-family Residential. West of the subject site, across Pennsylvania Avenue, there is a vacant lot zoned "LC" and single-family residences zoned "SF-5". North of the subject site, across 13th Street North, there is a car sales lot, a warehouse, a bar and a neighborhood retail strip containing a self-service laundry, barber and beauty shops and some vacant space. All of these developments are zoned "LC".

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The applicants had originally requested a zone change to “GC” General Commercial on Lots 289 – 295, the Granville Park Addition, to allow used car sales and an auto body and paint shop. At the January 13, 2005 MAPC meeting the applicant changed his request to “GC” zoning with a Protective Overlay. The provisions of the proposed Protective Overlay are:

- (1) Allow auto bodywork and painting and outdoor vehicle and equipment sales as the only permitted “GC” uses.
- (2) Enclose the area where the paint and body works would be located with a privacy fence and with a 5-foot landscape buffer on its south side where it abuts the American Legion Hall and on its east and west sides where it is adjacent to residential zoning.
- (3) Close the entrances onto the site from Pennsylvania Avenue.

Planning Staff made two recommendations:

- (1) Deny the requested “GC” zoning, but rezone the south most lot (Lot 295) zoned “B” to “LC”, to match the rest of the site’s “LC” zoning. This recommendation was based on the requested zoning not matching the intent and goals of the McAdams Rezoning Ordinance and the McAdams Revitalization Plan.
- (2) If the Planning Commission finds a car sales lot as an appropriate use for this site, rezone the site’s “B” zoned lot (Lot 295) to “LC” Limited Commercial to match the rest of the site’s “LC” zoning and approve a Conditional Use for vehicle sales outdoors, subject to the following conditions:
 1. All requirements of Article III, Section III.D.6.x. Of the Unified Zoning Code (UZC) shall be met. Any variance from Article III, Section III-D, 6.x of the UZC would require a waiver approved by the Wichita City Council.
 2. In addition to uses permitted in the “LC” Limited Commercial district, the site shall be limited to the sales of cars and light trucks. No sale or rental of trailers, vehicles or trucks larger than pick ups. The vehicle sales lot shall not be conducted in conjunction with any use not directly related to such a business.
 3. The applicant shall dedicate by separate instrument an additional 10-feet of street right-of-way along the property’s 13th Street North frontage within six months of final approval of the Conditional Use.
 4. The applicant shall dedicate by separate instrument complete access control along the site’s Hydraulic Avenue and Pennsylvania Avenue frontages. Where existing access is currently located on these frontages, the applicant shall guarantee the continuation of the curb, per City Standards.
 5. No elevated display areas.
 6. Parking spaces for employees and customers shall be provided on the property as required by the UZC and in conformance with the standards established by the City Traffic Engineer. The parking spaces shall be marked and designated for employees and customers and shall not be used for display or storage of vehicles for sale, unless an employee drives the vehicle. The vehicle sales lot shall not be conducted in conjunction with any use not directly related to such a business unless additional parking spaces for such businesses are provided per a revised site plan approved by the Planning Director.
 7. No outside storage of salvaged vehicles or parts shall be permitted in association with this use.
 8. A landscape plan, per the Landscape Ordinance, shall be submitted, including landscaped street yards and a landscape buffer along the south side of the site and the east and west sides where the site is adjacent to residential zoning, which shall be provided and maintained on the property as approved by the Planning Director.

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9. A revised site plan reflecting the conditions of approval (including Section III.D.6.x. of the Unified Zoning Code) shall be submitted for approval by the Planning Director within six months of approval of the Conditional Use by the MAPC or governing body, as applicable. The site plan shall include a 6-foot wooden, stockade type fence located on the south side of the site and along the eastern and western portions of the site where it is adjacent to residential zoning, all lighting, including those on the building, the location and size of the office and garage space within the current building and any additional buildings, approved signage and solid screening around the trash receptacle.
10. The site shall be developed in general conformance with the approved site plan and landscape plan. All improvements shown on the approved site plan and landscape plan shall be completed within one year of approval of the Conditional Use by the MAPC or governing body, as applicable.
11. The site shall be developed and operated in compliance with all federal, state, and local rules and regulations.
12. If the Zoning Administrator finds that there is a violation of any of the conditions of the Conditional Use, the Zoning Administrator, in addition to enforcing the other remedies set forth in Article VIII of the Unified Zoning Code, may, with the concurrence of the Planning Director, declare that the Conditional Use is null and void.

During the January 13, 2005 MAPC meeting, the applicant was asked if he would agree to a Conditional Use to allow car sales, but not the auto body and paint shop. The applicant replied no; he wanted both the car sales lot and the auto body and paint shop. A motion was made to defer consideration of the case for 30 days to allow the District Advisory Board (DAB) I to consider whether they wanted to hear this case. A substitute motion was then made to approve the rezoning of the "B" zoned lot to "LC". This motion failed 3-7. The original motion to defer consideration of the case for 30 days to allow DAB I to consider this case was then approved 9-1. No one spoke in opposition to the requested zone change at the MAPC meeting.

DAB I considered this case at their February 7, 2005 meeting. Several members of the public in attendance at the DAB meeting spoke against the requested zoning change to "GC" with the Protective Overlay and against the zone change of the "B" zoned lot to "LC" with a Conditional Use to allow car sales at the site. The members of the public speaking against both of these proposed actions felt they were contrary to the intent and goals of the McAdams Rezoning Ordinance and the McAdams Revitalization Plan. During the meeting, the applicant was asked if it was acceptable to him if the "B" zoned lot was rezoned to "LC" with a Conditional Use to allow car sales at the site, without the whole site being rezoned "GC" to allow the auto body and paint shop. The applicant replied that he wanted both the car sales lot and auto body and paint shop. DAB I voted (8-0) to deny both the requested zoning change to "GC" with the Protective Overlay and against the zone change of the "B" zoned lot to "LC" with a Conditional Use to allow car sales at the site. The DAB voted to rezone the "B" zoned lot to "LC" to match it with the rest of the site's "LC" zoning.

The MAPC reconsidered this case at their February 10, 2005 meeting. At this meeting, one person spoke in opposition to the requested zoning to "GC" with the Protective Overlay to allow the car sales and the auto body and paint shop and against the zone change of the "B" zoned lot to "LC" with a Conditional Use to allow car sales at the site. During the meeting, the applicant again stated that he would not be agreeable to only the rezoning of the "B" zoned lot to "LC" with a Conditional Use to allow car sales at the site. The applicant wanted the "GC" zoning, with the Protective Overlay, allowing both the car sales lot and the auto body and paint shop. The applicant also objected to condition #3 of the proposed Protective Overlay, which is the dedication of 10-foot of right-of-way along the site's 13th Street frontage. A motion was made to deny the request for the "GC" zoning with the Protective Overlay, but to only rezone the "B" zoned lot to "LC" to match the rest of the site's "LC" zoning. The motion failed 3-6. A motion was then made and approved, 6-3, to approve the "GC" zoning with Protective Overlay #154:

- (1) Allow auto bodywork and painting and outdoor vehicle and equipment sales as the only permitted "GC" uses.

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- (2) Enclose the area where the paint and body works would be located with a privacy fence and with a 5-foot landscape buffer on its south side where it abuts a Legion Hall and on its east and west sides where it is adjacent to residential zoning
- (3) Close the entrances onto the site from Pennsylvania Avenue

Staff has received written protest against the requested zoning change with the protective overlay that represent 21.58% of the protest area. When a 20% or greater protest exists, a zoning change cannot be approved except by at least a $\frac{3}{4}$ vote of all members of the governing body.

Council Member Brewer Council Member Brewer stated that after going through a lot of dialogue, the neighbors in this area feel that they have enough noise and activity going on without increasing it. From this standpoint, they were in opposition of this being approved and based on the history of that particular area and knowing what the McAdams Revitalization Plan is, he only has two options and one is to send this back to MAPC for review and see if they would be willing to change this to light commercial like the DAB agreed to or to deny it.

Motion--carried Brewer moved to return the application to the MAPC for reconsideration. Motion carried 7 to 0.

CUP2005-09

CUP2005-09, ASSOCIATED WITH (ZON2005-06)-CREATION OF DP282 FOLIAGE CENTER COMMERCIAL COMMUNITY UNIT PLAN; ZONE CHANGE TO LIMITED COMMERCIAL. GENERALLY LOCATED AT THE NORTHWEST CORNER OF 13TH STREET NORTH AND WEBB ROAD. (DISTRICT II)

Agenda Report No. 05-0423

MAPC Recommendations: Approve, subject to staff recommendations, vote (9-0).

MAPD Staff Recommendations: Approve, subject to staff recommendations.

DAB Recommendations: Approve, subject to staff recommendations, vote (8-0).

The applicant requests a zone change from SF-5 to LC, Limited Commercial on two tracts: 1.01 acres located along North Webb Road, and .16 acres (a 20-foot wide strip) located along East 13th Street North. These two tracts are adjacent to an existing 5.97 acre tract that is currently zoned LC. The applicant desires to combine all three tracts to create DP-282, The Foliage Center Commercial Community Unit Plan, that is proposed for commercial use. The property is located west of Webb Road and north of 13th Street North. The site is currently vacant and has extensive berming and landscaping.

The applicant proposes a 7.14-acre C.U.P with two parcels. Parcels 1 (6.22 acres), and 2 (.92 acres) are both proposed for "LC" Limited Commercial and "GO" General Office uses, except: adult entertainment, residential use, cemetery, church or place of worship, school K-12, college or university, community assembly, convalescent care facility, group home, hospital, recycling process center, reverse vending machine, pawn shop, utility, car wash, construction sales and service, nightclub, tavern and drinking establishment, vehicle repair, vocational school, wireless communication facility, asphalt or concrete plant or storage. Proposed access to 13th Street North is with one full movement opening and one right-in/right-out only opening. Proposed access to Webb Road is with two full movement openings. The proposed access points do not meet the City of Wichita's Access Management Policy.

Signs along and adjacent to 13th and Webb Road are proposed to be monument signs with a maximum height of 20 feet. Three development signs are proposed (one along 13th and two along Webb Road) to be limited to a maximum of 100 square feet each and contain the development name only. Three business use or name identification signs are proposed on Parcel 1 and two on Parcel 2. Business use or name identification signs shall be limited to a maximum sign area of 150 square feet. The requested minimum distance between signs shall be 150 feet, except business use or name identification signs may be located a minimum of 75 feet from an adjacent development sign. Building signage shall be limited to 20% of the wall area with a maximum size of 150 square feet per elevation for one sign or may be divided into a maximum of three signs, 70 square feet per sign per elevation. No flashing, moving, portable, billboard, banner or pennant signs shall be permitted (except for signs showing time and temperature).

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All buildings in the CUP are proposed to share a uniform architectural character, color, and the same predominate exterior building material, as approved by the Director of Planning. Building walls and roofs must have predominately earth-tone colors, with vivid colors limited to incidental accents, and must employ materials similar to surrounding residential areas. A five-foot masonry wall easement is proposed along the entire west and north boundary of the site. Maximum building coverage is 30% for both parcels, and maximum gross floor area is 35%. Maximum height is 35 feet / two stories for both parcels with a maximum unoccupied architectural element height of 50 feet. All new utilities are to be placed underground. Setbacks, parking, screening and landscaping are proposed to meet existing codes; in addition, all parking lots are proposed to provide parking lot landscaping equivalent to one tree per 20 parking spaces. The applicant proposes limiting outdoor music and trash removal to the hours between 9 am and 10 pm.

North of the application area is SF-5 zoned vacant property (under the same ownership as the application area), a residential subdivision reserve and residential development. South of the application area is a GO General Office and LC zoned office park. Further south, the Collegiate School fronts Webb Road. East of the application area is the LI Limited Industrial zoned Waterfront commercial development and lake. Also east of the site, and south of 13th Street is the LI zoned Raytheon manufacturing complex and lake. West of the application area is SF-5 zoned property and a private drive under the ownership of the applicant, and SF-5 zoned residential development on the north side of 13th Street. Also west of the site, and south of 13th Street, is the Collegiate School.

At the MAPC hearing on March 24, 2005, the agent for the applicant spoke in support of all staff recommended conditions. Surrounding homeowners and a representative from Collegiate School expressed concern about increased traffic and drainage issues. The MAPC voted (9-0) to recommend approval of the request subject to the staff recommended conditions listed below. DAB II heard this request on April 4, 2005, and no members of the public chose to speak at that hearing. The DAB voted (8-0) to recommend approval of the request subject to the staff recommended conditions listed below:

- A. APPROVE the zone change (ZON2004-00006) to "LC" Limited Commercial subject to platting within one year.
- B. APPROVE the Community Unit Plan (DP282 The Foliage Center Commercial CUP) subject to platting within one year and subject to the following conditions:
 - 1. Transportation requirements:
 - a. One full movement access point on 13th Street shall align with the opening on the south side of 13th Street. Two full access points on Webb Road shall be as demonstrated by the applicant. Center turn lane improvements and accel/decel lane improvements shall be based on access to openings, and shall be set by the Traffic Engineer. The Traffic Engineer and Director of Planning shall approve the reconfigured right-of-way openings.
 - b. General Provision #13b shall be amended to state: "Guarantees for street improvements on Webb Road and 13th Street North shall be determined by the Traffic Engineer at the time of platting."
 - 2. General Provision #6 shall be amended to eliminate the words "along Village Parkway."
 - 3. General Provision #7b shall be amended to add the sentence: "Screening material shall be consistent in material and color with the supported buildings."
 - 4. General Provision #9f shall be amended to reduce the number of business use or name identification signs on Parcel 1 from three to two.
 - 5. General Provision #10d shall be amended to add the sentence: "Light poles shall be reduced to 14 feet when within 100 feet of residential zoning."
 - 6. General Provision #14 shall be amended to add the following sentence "A drainage plan shall be submitted to the City Engineer for approval. Required guarantees for drainage shall be provided at the time of platting improvements."
 - 7. A General Provision shall be added to state: "A pedestrian circulation plan shall be approved by the Planning Director prior to the issuance of building permits. Said plan shall link all buildings in the development with the arterial sidewalks on Webb Road and 13th Street North."

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8. A General Provision shall be added to state: "Fire lanes shall be in accordance with the Fire Code of the City of Wichita. No parking shall be allowed in said fire lanes, although they may be used for passenger loading and unloading. The Fire Chief or his designated representative shall review and approve the location and design of all fire lanes. Fire hydrant installation and paved access to all building sites shall be provided for each phase of construction prior to the issuance of building permits."
9. The north and west building setback shall be increased from 30 feet to 35 feet.
10. All property included within this C.U.P. and zone case shall be platted within one year after approval of this CUP by the Governing Body, or the cases shall be considered denied and closed. The resolution establishing the zone change shall not be published until the plat has been recorded with the Register of Deeds.
11. Prior to publishing the resolution establishing the zone change, the applicant(s) shall record a document with the Register of Deeds indicating that this tract (referenced as DP-282) includes special conditions for development on this property.
12. The applicant shall submit 4 revised copies of the C.U.P. to the Metropolitan Area Planning Department within 60 days after approval of this case by the Governing Body, or the request shall be considered denied and closed.

Motion--

Mayans moved that the findings of the MAPC be adopted; the zone change and CUP subject to the condition of platting within one year and the recommended conditions approved; the Planning Department be instructed to place the ordinance on first reading when the plat has been recorded with the Register of Deeds. Motion carried 7 to 0.

--carried

ZON2005-00004

ZON2005-00004-ZONE CHANGE FROM SINGLE-FAMILY RESIDENTIAL TO OFFICE WAREHOUSE. GENERALLY LOCATED NORTH OF CENTRAL AND EAST OF MCCOMAS. (DISTRICT VI)

Agenda Report No. 05-0424

MAPC Recommendations:	Deny "OW" Office Warehouse and approve "NR" Neighborhood Retail. Vote (11-0)
MAPD Staff Recommendations:	Deny "OW" Office Warehouse and approve "NR" Neighborhood Retail.
DAB IV Recommendations:	March 7, 2005 – deny "OW" Office Warehouse, vote (9-0). April 4, 2005 – approve "NR" Neighborhood Retail, vote (9-0).

The applicant originally requested OW Office Warehouse zoning on a .37-acre site, currently zoned SF-5 Single-family. The original proposed use was a hardwood floor company showroom and storage facility (with no on site construction), located northeast of the Central and McComas intersection. This proposed land use is classified as a non-primarily retail "construction sales and services", requiring OW or more intense zoning. The applicant proposed utilizing the existing house for an office, and adding a 1,500 square foot building in the back yard for a storage facility. North and east of the application area are SF-5 zoned single-family residences. East of the site, and on the north side of Central, are two other former single-family homes rezoned for non-residential use; at the northwest corner of Central and Kessler is an LC Limited Commercial zoned office use, and at the northeast corner of Central and Kessler is a GO General Office zoned property with an office use. South of the application area, across Central, is an NR Neighborhood Retail strip center and an LC zoned car wash. West of the site, across McComas, is GO zoned vacant land, further west is the LC zoned corner at West Street with retail and bank uses.

This request was heard at the March 7, 2005 DAB VI hearing; one neighbor spoke in opposition to the request. The DAB voted 9-0 to recommend denial of the request.

The agent for the applicant then met with staff, and amended the request to the less intense zoning district of NR Neighborhood Retail. The application's proposed use will no longer be for Construction Sales and Services (which is not permitted in the NR district), but is amended to "neighborhood retail uses."

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This request was heard by MAPC at the March 10, 2005 hearing; no members of the public spoke regarding the request. The MAPC voted 11-0 to deny the "OW" request and recommended approval of the "NR" request.

This request was heard again by DAB VI on April 4, 2005. The DAB voted 9-0 to recommend approval of the "NR" request.

Motion--
--carried

Mayans moved to concur with the findings of the MAPC and place the ordinance establishing the zone change to "NR" Neighborhood Retail on first reading. Motion carried 7 to 0.

ORDINANCE

An Ordinance changing the zoning classifications or districts of certain lands located in the City of Wichita, Kansas, under the authority granted by the Wichita-Sedgwick County Unified Zoning Code, Section V-C, as adopted by City of Wichita Code Section 28.04.210, introduced and under the rules laid over. (ZON 2005-04)

VAC2004-00067

VAC2004-00067-REQUEST TO VACATE PLATTED RIGHT-OF-WAY LOCATED MIDWAY BETWEEN WEST STREET AND THE BIG DITCH-COWSKIN FLOODWAY, NORTH OF MACARTHUR ROAD AND WEST OF BAEHR STREET. (DISTRICT IV)

Agenda Report No. 05-0425

Staff Recommendation: Approve
MAPC Recommendation: Approve (Unanimously)

The applicants are requesting consideration to vacate the 20-foot wide (x) 120/140-foot long portion of an east-west platted alley that abuts the south side of Lot 8 and the north sides of Lots 9-13, Block 2, Original Townsite of Oatville plat. The alley ends at a reserve on its west side and intersects with Baehr Street on its east side. There are no franchised utilities, sewer lines, manholes or water lines in the easement. There is no future need for the alley to be retained as an easement for utilities. The nearest sewer service is 500 feet west of the site. The nearest water service is approximately ½ mile west (across the Big Ditch Cowskin Floodway) or east of the site. Both abutting property owners have signed the petition and application to vacate. The Original Townsite of Oatville plat was recorded with the Register of Deeds on March 30, 1885.

The MAPC voted to approve (12-0) the vacation request. No one spoke in opposition to this request at the MAPC's advertised public hearing or its Subdivision Committee meeting. No written protests have been filed.

A certified copy of the Vacation Order and a Restrictive Covenant will be recorded with the Register of Deeds

Motion--
--carried

Mayans moved that the Vacation Order be approved and the necessary signatures authorized. Motion carried 7 to 0.

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OAK CREEK ADD. SUB2004-114-PLAT OF OAK CREEK ADDITION LOCATED ON THE SOUTHWEST CORNER OF 21ST STREET NORTH AND GREENWICH ROAD. (DISTRICT II)

Agenda Report No. 05-0426

Staff Recommendation: Approve the plat.
MAPC Recommendation: Approve the plat. (11-0)

This site, consisting of 23 lots on 154 acres, is located within three miles of Wichita's city limits. Since annexation is a requirement for this plat, the corresponding annexation case (A05-05R) is also on the May 3 agenda. A zone change (ZON 2003-42) from SF-20, Single-Family Residential District to LC, Limited Commercial District and GO, General Office District has been approved. The site is subject to the provisions of the Oak Creek Commercial Community Unit Plan (CUP 2003-43, DP-274). A Notice of CUP has been submitted.

Petitions, 100 percent, and a Certificate of Petitions have been submitted for water, sanitary sewer, accel/decel lane, traffic signal, drainage, paving and water main improvements. In accordance with the CUP, a Cross-lot Access and Easement has been submitted to assure internal vehicular movement between the lots. A Restrictive Covenant was provided restricting the streets to "No Parking". This Restrictive Covenant also allows for the creation of a lot owner's association to provide for the ownership and maintenance of the proposed reserves. Since this site is within the noise impact area of McConnell Air Force Base, an Avigational Easement and Restrictive Covenant has been submitted.

This plat has been reviewed and approved by the Planning Commission, subject to conditions and recording within 30 days. Publication of the Ordinance should be withheld until the Plat is recorded with the Register of Deeds.

The Notice of CUP, Certificate of Petitions, Cross-Lot Access and Easement, Avigational Easement and Restrictive Covenants will be recorded with the Register of Deeds.

Motion--

Mayans moved that the documents and plat be approved; the necessary signatures authorized; the Resolutions adopted and the Ordinance placed on first reading with publication being withheld until the Plat is recorded with the Register of Deeds. Motion carried 7 to 0.

-- carried

ORDINANCE

An Ordinance changing the zoning classifications or districts of certain lands located in the City of Wichita, Kansas, under the authority granted by the Wichita-Sedgwick County Unified Zoning Code, Section V-C, as adopted by City of Wichita Code Section 28.04.210, introduced and under the rules laid over. (ZON 2003-42)

RESOLUTION NO. 05-235

Resolution of findings of advisability and Resolution authorizing construction of Water Distribution System No. 448-90066 (south of 21st, west of Greenwich), in the City of Wichita, Kansas, pursuant to findings of advisability made by the Governing Body of the City of Wichita, Kansas, presented. Mayans moved that the Resolution be adopted. Motion carried 7 to 0. Yeas: Brewer, Fearey, Gray, Lambke, Martz, Schlapp, Mayans.

RESOLUTION NO. 05-236

Resolution of findings of advisability and Resolution authorizing construction of Water Distribution System No. 448-90067 (south of 21st, west of Greenwich) in the City of Wichita, Kansas, pursuant to findings of advisability made by the Governing Body of the City of Wichita, Kansas, presented. Mayans moved that the Resolution be adopted. Motion carried 7 to 0. Yeas: Brewer, Fearey, Gray, Lambke, Martz, Schlapp, Mayans.

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RESOLUTION NO. 05-237

Resolution of findings of advisability and Resolution authorizing construction of Water Distribution System No. 448-90068 (south of 21st, west of Greenwich) in the City of Wichita, Kansas, pursuant to findings of advisability made by the Governing Body of the City of Wichita, Kansas, presented. Mayans moved that the Resolution be adopted. Motion carried 7 to 0. Yeas: Brewer, Fearey, Gray, Lambke, Martz, Schlapp, Mayans.

RESOLUTION NO. 05-238

Resolution of findings of advisability and Resolution authorizing construction of Water Distribution System No. 448-90069 (south of 21st, west of Greenwich) in the City of Wichita, Kansas, pursuant to findings of advisability made by the Governing Body of the City of Wichita, Kansas, presented. Mayans moved that the Resolution be adopted. Motion carried 7 to 0. Yeas: Brewer, Fearey, Gray, Lambke, Martz, Schlapp, Mayans.

RESOLUTION NO. 05-239

Resolution of findings of advisability and Resolution authorizing construction of Lateral 2, Main 16, Four Mile Creek Sewer (south of 21st, west of Greenwich) 468-83985, in the City of Wichita, Kansas, pursuant to findings of advisability made by the Governing Body of the City of Wichita, Kansas, presented. Mayans moved that the Resolution be adopted. Motion carried 7 to 0. Yeas: Brewer, Fearey, Gray, Lambke, Martz, Schlapp, Mayans.

RESOLUTION NO. 05-240

Resolution of findings of advisability and Resolution authorizing construction Lateral 3, Main 16, Four Mile Creek Sewer (south of 21st, west of Greenwich) 468-83986, in the City of Wichita, Kansas, pursuant to findings of advisability made by the Governing Body of the City of Wichita, Kansas, presented. Mayans moved that the Resolution be adopted. Motion carried 7 to 0. Yeas: Brewer, Fearey, Gray, Lambke, Martz, Schlapp, Mayans.

RESOLUTION NO. 05-241

Resolution of findings of advisability and Resolution authorizing construction Lateral 4, Main 16, Four Mile Creek Sewer (south of 21st, west of Greenwich) 468-83987, in the City of Wichita, Kansas, pursuant to findings of advisability made by the Governing Body of the City of Wichita, Kansas, presented. Mayans moved that the Resolution be adopted. Motion carried 7 to 0. Yeas: Brewer, Fearey, Gray, Lambke, Martz, Schlapp, Mayans.

RESOLUTION NO. 05-242

Resolution of findings of advisability and Resolution authorizing improving Storm Water Drain No. 256 (south of 21st, west of Greenwich) 468-83988, in the City of Wichita, Kansas, pursuant to findings of advisability made by the Governing Body of the City of Wichita, Kansas, presented. Mayans moved that the Resolution be adopted. Motion carried 7 to 0. Yeas: Brewer, Fearey, Gray, Lambke, Martz, Schlapp, Mayans.

RESOLUTION NO. 05-243

Resolution of findings of advisability and Resolution authorizing improving Storm Water Drain No. 257 (south of 21st, west of Greenwich) 468-83989, in the City of Wichita, Kansas, pursuant to findings of advisability made by the Governing Body of the City of Wichita, Kansas, presented. Mayans moved that the Resolution be adopted. Motion carried 7 to 0. Yeas: Brewer, Fearey, Gray, Lambke, Martz, Schlapp, Mayans.

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RESOLUTION NO. 05-244

Resolution of findings of advisability and Resolution authorizing improving Storm Water Drain No. 258 (south of 21st, west of Greenwich) 468-83990, in the City of Wichita, Kansas, pursuant to findings of advisability made by the Governing Body of the City of Wichita, Kansas, presented. Mayans moved that the Resolution be adopted. Motion carried 7 to 0. Yeas: Brewer, Fearey, Gray, Lambke, Martz, Schlapp, Mayans.

RESOLUTION NO. 05-245

Resolution of findings of advisability and Resolution authorizing improving Storm Water Drain No. 259 (south of 21st, west of Greenwich) 468-83991, in the City of Wichita, Kansas, pursuant to findings of advisability made by the Governing Body of the City of Wichita, Kansas, presented. Mayans moved that the Resolution be adopted. Motion carried 7 to 0. Yeas: Brewer, Fearey, Gray, Lambke, Martz, Schlapp, Mayans.

RESOLUTION NO. 05-246

Resolution of findings of advisability and Resolution authorizing improving Storm Water Drain No. 260 (south of 21st, west of Greenwich) 468-83992, in the City of Wichita, Kansas, pursuant to findings of advisability made by the Governing Body of the City of Wichita, Kansas, presented. Mayans moved that the Resolution be adopted. Motion carried 7 to 0. Yeas: Brewer, Fearey, Gray, Lambke, Martz, Schlapp, Mayans.

RESOLUTION NO. 05-247

Resolution of findings of advisability and Resolution authorizing improving Storm Water Drain No. 261 (south of 21st, west of Greenwich) 468-83993, in the City of Wichita, Kansas, pursuant to findings of advisability made by the Governing Body of the City of Wichita, Kansas, presented. Mayans moved that the Resolution be adopted. Motion carried 7 to 0. Yeas: Brewer, Fearey, Gray, Lambke, Martz, Schlapp, Mayans.

RESOLUTION NO. 05-248

Resolution of findings of advisability and Resolution authorizing constructing an Accel/Decel Lane on the north side of 21st Street North from the west property line of lot 3, block 2, to Greenwich Road (south of 21st, west of Greenwich) 472-84206, in the City of Wichita, Kansas, pursuant to findings of advisability made by the Governing Body of the City of Wichita, Kansas, presented. Mayans moved that the Resolution be adopted. Motion carried 7 to 0. Yeas: Brewer, Fearey, Gray, Lambke, Martz, Schlapp, Mayans.

RESOLUTION NO. 05-249

Resolution of findings of advisability and Resolution authorizing constructing an Accel/Decel Lane on the north side of 21st Street North from the west property line of Oak Creek Addition to the west line of lot 3, block 2, (south of 21st, west of Greenwich) 472-84207, in the City of Wichita, Kansas, pursuant to findings of advisability made by the Governing Body of the City of Wichita, Kansas, presented. Mayans moved that the Resolution be adopted. Motion carried 7 to 0. Yeas: Brewer, Fearey, Gray, Lambke, Martz, Schlapp, Mayans.

RESOLUTION NO. 05-250

Resolution of findings of advisability and Resolution authorizing constructing a traffic signal at Greenwich Road at the major entrance located 2100 feet south of 21st street north (south of 21st, west of Greenwich) 472-84208, in the City of Wichita, Kansas, pursuant to findings of advisability made by the Governing Body of the City of Wichita, Kansas, presented. Mayans moved that the Resolution be adopted. Motion carried 7 to 0. Yeas: Brewer, Fearey, Gray, Lambke, Martz, Schlapp, Mayans.

RESOLUTION NO. 05-251

Resolution of findings of advisability and Resolution authorizing constructing Pavement on Oak Creek Parkway from 21st street north to Greenwich Road and on Chateau Parkway from 21st street north to a point 80.00 feet south of lot 4, block 2, Oak Creek Addition (south of 21st, west of Greenwich) 472-84209, in the City of Wichita, Kansas, pursuant to findings of advisability made by the Governing Body of the City of Wichita, Kansas, presented. Mayans moved that the Resolution be adopted. Motion carried 7 to 0. Yeas: Brewer, Fearey, Gray, Lambke, Martz, Schlapp, Mayans.

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RESOLUTION NO. 05-252

Resolution of findings of advisability and Resolution authorizing constructing Pavement on Chateau Parkway from a point 80.00 feet south of lot 4, block 2, Oak Creek Addition to the north line of 19th street north and 19th street north from the west line of Oak Creek Addition to Chateau Parkway to and including the roundabout (south of 21st, west of Greenwich) 472-84210, in the City of Wichita, Kansas, pursuant to findings of advisability made by the Governing Body of the City of Wichita, Kansas, presented. Mayans moved that the Resolution be adopted. Motion carried 7 to 0. Yeas: Brewer, Fearey, Gray, Lambke, Martz, Schlapp, Mayans.

RESOLUTION NO. 05-253

Resolution of findings of advisability and Resolution authorizing constructing pavement on 19th street north from Chateau Parkway to Oak Creek Parkway (south of 21st, west of Greenwich) 472-84211, in the City of Wichita, Kansas, pursuant to findings of advisability made by the Governing Body of the City of Wichita, Kansas, presented. Mayans moved that the Resolution be adopted. Motion carried 7 to 0. Yeas: Brewer, Fearey, Gray, Lambke, Martz, Schlapp, Mayans.

RESOLUTION NO. 05-254

Resolution of findings of advisability and Resolution authorizing constructing improvements on Greenwich Road (south of 21st, west of Greenwich) 472-84218, in the City of Wichita, Kansas, pursuant to findings of advisability made by the Governing Body of the City of Wichita, Kansas, presented. Mayans moved that the Resolution be adopted. Motion carried 7 to 0. Yeas: Brewer, Fearey, Gray, Lambke, Martz, Schlapp, Mayans.

RESOLUTION NO. 05-255

Resolution of findings of advisability and Resolution authorizing construction of Lateral 1, Main 16, Four Mile Creek Sewer, (south of 21st, west of Greenwich) 468-83984, in the City of Wichita, Kansas, pursuant to findings of advisability made by the Governing Body of the City of Wichita, Kansas, presented. Mayans moved that the Resolution be adopted. Motion carried 7 to 0. Yeas: Brewer, Fearey, Gray, Lambke, Martz, Schlapp, Mayans.

DED2005-07

DED2005-07-DEDICATION OF STREET RIGHT-OF-WAY AND DED2005-08-DEDICATION OF A UTILITY EASEMENT, LOCATED SOUTH OF CENTRAL AND ON THE EAST SIDE OF RIDGE ROAD. (DISTRICT VI)

Agenda Report No. 05-0427

MAPC Recommendation: Accept the Dedications. (9-0)

These dedications are associated with a lot split case (SUB 2005-09). The Dedications are for additional street right-of-way along Ridge Road and for construction and maintenance of public utilities.

The Dedications have been reviewed and approved by the Planning Commission.

The Dedications will be recorded with the Register of Deeds.

Motion--carried

Mayans moved that the Dedications be accepted. Motion carried 7 to 0.

DED2005-09

DED2005-09-DEDICATION OF A WATER EASEMENT, LOCATED SOUTH OF 21ST STREET NORTH AND ON THE EAST SIDE OF TYLER ROAD. (DISTRICT V)

Agenda Report No. 05-0428

MAPC Recommendation: Accept the Dedication. (9-0)

This dedication is associated with a lot split case (SUB 2004-149). The Dedication is for construction and maintenance of a water system.

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The Dedication has been reviewed and approved by the Planning Commission.

The Dedication will be recorded with the Register of Deeds.

Motion--carried

Mayans moved that the Dedication be accepted. Motion carried 7 to 0.

DED2005-10

DED2005-10-DEDICATION OF ACCESS CONTROL FOR PROPERTY LOCATED ON THE NORTH SIDE OF MAPLE STREET AND WEST OF MAIZE ROAD. (DISTRICT V)

Agenda Report No. 05-0429

MAPC Recommendation: Accept the Dedication. (9-0)

This dedication is associated with a lot split case (SUB 2004-70). The Dedication is for complete access control on Maple Street.

The Dedication has been reviewed and approved by the Planning Commission.

The Dedication will be recorded with the Register of Deeds.

Motion--carried

Mayans moved that the Dedication be accepted. Motion carried 7 to 0.

DED2005-12 & 13

DED2005-12 AND DED2005-13-DEDICATION OF STREET RIGHT-OF-WAY, LOCATED ON THE NORTHWEST CORNER OF DOUGLAS AND TYLER ROAD. (DISTRICT V)

Agenda Report No. 05-0430

MAPC Recommendation: Accept the Dedications. (9-0)

These dedications are associated with a zoning case (ZON 2004-58). The Dedications are for additional street right-of-way along Tyler Road.

The Dedications have been reviewed and approved by the Planning Commission.

The Dedications will be recorded with the Register of Deeds.

Motion--carried

Mayans moved that the Dedications be accepted. Motion carried 7 to 0.

A05-07

A05-07R-REQUEST BY MAPLE GROUP, LLC TO ANNEX LANDS GENERALLY LOCATED NORTHEAST OF THE INTERSECTION OF 151ST STREET WEST AND MAPLE STREET. (DISTRICT V)

Agenda Report No. 05-0431

The City has received a request to annex 75.3 acres of land generally located northeast of the intersection of 151st Street West and Maple Street. The annexation area abuts the City of Wichita to the east and south of the proposed property. The property owner proposes to develop the site for single-family (SF-5) use.

Analysis:

Land Use and Zoning: The proposed annexation consists of 75.3 acres of property currently zoned "SF-20" Single-Family Residential. Upon annexation, the property will be rezoned to SF-5, Single-Family Residential to allow for the lot sizes being platted.

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Property to the east and south of the subject property is zoned "SF-5" Single-Family Residential, while property to the north and west is zoned "SF-20."

Public Services:

There are existing water mains in Maple and in City View, north of Maple that are more than sufficient for extension into the area being platted and annexed. There are existing sewer lines in the Shadow Woods Addition to the southeast that have more than sufficient capacity for the subject area, assuming that the elevations across the drainage way are adequate.

Street System: The subject property borders Maple Street to the south, which is a paved, two-lane arterial road. The property also connects to Country View and City View, which are both paved residential streets.

The City of Wichita Capital Improvement Program (CIP) 2004-2013 has scheduled road improvements along Maple Street from 135th Street to 167th Street, which runs along the south side of the subject property. The Sedgwick County Capital Improvement Program 2005-2009 and the 2004 Transportation Improvement Program do not call for improvements near the proposed annexation site.

Public Safety: Fire services to this site can be provided by the City of Wichita within a six (6) to seven (7) minute approximate response time from City Station No. 17 located at 10651 W. Maple. Upon annexation, police protection will be provided to the area by the Patrol West Bureau of the Wichita Police Department, headquartered at 661 N. Elder.

Parks: The Auburn Hills Golf Course, a 158-acre, 18-hole championship golf course, is located to the south of the proposed annexation site. In addition, Meadows Parks (51.38 acres) and West Millbrook Park (25.6 acres) are approximately 1½ miles to the east from the subject property. According to the 1996 Parks and Open Space Master Plan, a greenway has been proposed that would run through the southeasterly portion of the subject property.

School District: The annexation property is part of the Unified School District 265 (Goddard School District). Annexation will not change the school district.

Comprehensive Plan: The proposed annexation is consistent with the Wichita-Sedgwick County Comprehensive Plan. The annexation property falls within the 2010 Wichita Urban Service Area as shown in the Plan.

The current approximate appraised value of the proposed annexation lands, according to County records, is \$11,450 with a total assessed value of \$3,435. Using the current City levy (\$31.828/\$1000 x assessed valuation), this roughly yields \$109 in City annual tax revenues for the property. The future assessed value of this property will depend on the type and timing of any other developments on the proposed annexation property, and the current mill levy. At this time, the property owner is seeking approval of a plat to develop 109 lots of single-family units on the subject property within the next four years. The value of this residential development is estimated at \$125,000 per acre; a total value after completion is estimated at \$13,625,000. Assuming the current City levy remains about the same, this would roughly yield \$49,870 in City annual tax revenues.

The property is eligible for annexation under K.S.A. 12-519, et seq.

Motion--
--carried

Mayans moved that the annexation request be approved and the Ordinance placed on first reading.
Motion carried 7 to 0.

ORDINANCE

An Ordinance including and incorporating certain blocks, parcels, pieces and tracts of land within the limits and boundaries of the City of Wichita, Kansas, introduced and under the rules laid over.
(A05-07R)

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AIRPORT AGENDA

Motion--carried Mayans moved that the Airport Consent Items be approved as recommended. Motion carried 7 to 0.

MIDFIELD

MIDFIELD ROAD SITE DEVELOPMENT.

Agenda Report No. 05-0432

On September 9, 2003 the Wichita Airport Authority approved an infrastructure project designed to better accommodate development on Mid-Continent Airport. Utility Improvements are identified in the current Capital Improvement Program to accomplish this goal.

In order to comply with agreements made with the new Honeywell development, the airport's existing rotating beacon must be relocated and a new power transformer must be added to accommodate the project.

This portion of the project is estimated to cost \$340,000 and will be funded with General Obligation Bonds paid with Airport Revenue. Federal Funds will be requested to pay for a portion of the relocation of the rotating beacon. The increase of \$340,000 will result in a total budget of \$900,000.

Motion--
--carried Mayans moved that the project budget be approved; the resolution adopted and the necessary signatures authorized. Motion carried 7 to 0.

RESOLUTION NO. A-05-004

A Resolution declaring that a public necessity exists for, and that the public safety, service and welfare will be advanced by, the authorization of certain capital improvements to the Wichita Mid-Continent Airport Facility; and setting forth the nature of said improvements; the estimated costs thereof; and the manner of payment of same presented. Mayans moved that the Resolution be adopted. Motion carried 7 to 0. Yeas: Brewer, Fearey, Gray, Lambke, Martz, Schlapp, Mayans.

PARKING LOT

REMOTE PARKING LOT-CHANGE ORDER.

Agenda Report No. 05-0433

On March 16, 2004 the Wichita Airport Authority approved a project to provide for a Remote Parking Lot. Increased demand at the terminal paid parking lots required the addition of more paid parking. The parking lot is fully functional and serving Wichita travelers.

A final change order has been prepared and includes the addition of a fabric weed barrier for aesthetic considerations.

The cost of the change order is \$1,430. Funds are available within the approved budget. Total change orders are less than one percent of the original contract amount.

Motion--
--carried Mayans moved that the change order be approved and the necessary signatures authorized. Motion carried 7 to 0.

CITY COUNCIL

BOARD APPTS.

BOARD APPOINTMENTS.

Council Member Skelton Council Member Skelton requested that Teresa Cook be appointed to DAB III.

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Council Member Gray Council Member Gray requested that Doug Leeper be appointed to the Park Board, which will become active when his current park board's term expires and Michael Gisek to the Board of Zoning Appeals.

Motion--carried Mayans moved that the appointments be made. Motion carried 7 to 0.

EXECUTIVE SESSION

Motion-- Mayans moved that the City Council recess into Executive Session at 12:30 p.m. to consider:
Consultation with Legal Counsel on matters privileged in the Attorney-Client relationship relating to:
pending litigation, potential litigation and legal advice and that the Council return from Executive
Session no earlier than 1:15 p.m. and reconvene in the City Council Chambers of City Hall. Motion
--carried carried 7 to 0.

RECONVENE

The Council reconvened in the Council chambers at 1:17 p.m. and the Mayor announced that no action was needed.

Motion--carried Mayans moved at 1:17 p.m. to close the executive session. Motion carried 4 to 0, (Brewer, Fearey and Martz absent)

Motion-- Mayans moved at 1:18 p.m. to close the regular meeting. Motion carried 4 to 0, (Brewer, Fearey and Martz absent).

Adjournment The Council Meeting adjourned at 1:18 p.m.

Karen Sublett

City Clerk

Workshop to follow in the First Floor Board Room